

**OFFICIAL INFORMATION\*\*CONFIDENTIAL\*\*EVIDENCE CODE SECTION 1040  
INTRADEPARTMENTAL CORRESPONDENCE**

DATE: May 8, 2020

TO: Honorable Board of Police Commissioners

FROM: Inspector General

SUBJECT: CAROTID RETRAINT CONTROL HOLD 024-19 FOR 5/19/20 CLOSED-  
SESSION AGENDA

<u>Division</u>	<u>Date</u>	<u>Time</u>	<u>Duty-On (X) Off ( )</u>	<u>Uniform-Yes (X) No ( )</u>
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Southwest	6/4/19	7:15 p.m.		
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<u>Officer(s) Involved in Use of Force</u>	<u>Length of Service</u>
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Obaidee, S./PO III	14 years, 8 months
Huerta, R./PO I	7 months

Total Involved Officer(s)

1 x PO III  
1 x PO I

<u>Suspect</u>	<u>Deceased ( )</u>	<u>Wounded (X)</u>	<u>Non-Hit ( )</u>
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Alan Aparicio: Male Hispanic, 26 years of age.

**COP Recommendations**

**Tactics** – Administrative Disapproval, Officer Obaidee. Tactical Debrief, Officer Huerta.

**Non-Lethal Use of Force** – In Policy, No Further Action, Officers Obaidee and Huerta.

**Lethal Use of Force** – Out of Policy, Administrative Disapproval, Officer Obaidee.

**IG Recommendations**

**Tactics** – Same as COP.

**Non-Lethal Use of Force** – Same as COP.

**Lethal Use of Force** – Same as COP.

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## **INVESTIGATION**

### **Annotated Force Investigation Division (FID) Incident Summary<sup>1</sup>**

**Synopsis:** On Tuesday, June 4, 2019, at approximately 1905 hours, Southeast Patrol Division, uniformed police officers, on loan to Southwest Division, responded to a radio call of a battery suspect. When the officers attempted to handcuff the suspect, he resisted and attempted to unholster an officer's pistol. The officer believed the suspect was going to disarm him and shoot him and his partner; therefore, he applied a Carotid Restraint Control Hold (CRCH) on the suspect (Investigators' Note No. 1).

### **Investigative Summary**

On Tuesday, June 4, 2019, Victim Benjamin Aparicio was at his residence located at 4223 South Hoover Street, apartment number six.<sup>2</sup> According to Victim Aparicio, he resides at this location with his wife, Gabina Irma Flores, and two adult sons named Benjamin Aparicio Junior and Alan Aparicio (Suspect).<sup>3</sup> According to Victim Aparicio, his son Alan was previously diagnosed with Schizophrenia and had a history of violent behavior and narcotic use.<sup>4</sup>

***OIG Note No. 1:** When interviewed by FID, Benjamin Aparicio said about his son Alan Aparicio, "Well, the truth is that he's been violent. He's always been violent." In describing the circumstances leading up to this incident, Benjamin Aparicio went on to say that this was the first time he had been struck by his son; however, he said that his son had punched Gabina Irma Flores in the back of the neck/head area approximately seven months earlier. The police were not called during that prior incident.<sup>5</sup>*

**Note:** Apartment number six was a one-bedroom apartment, which had been divided into multiple bedrooms/living spaces. The living room area

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<sup>1</sup> The Incident Summary presented here is reproduced from FID's report regarding this case, and is supplemented with annotations by the OIG. All OIG annotations are referenced as an "OIG Note." All other references and citations in the reproduced FID Incident Summary (e.g., Investigators' Notes or Addenda Items) are reproduced directly from FID's report. Unless otherwise stated, all information provided in OIG annotations is derived from FID's investigation of this incident.

<sup>2</sup> Benjamin Aparicio, male Hispanic, 5 feet 8 inches tall, 150 pounds, date of birth March 31, 1960 (59 years old). Benjamin Aparicio also went by the name Benjamin Aparicio Villegas.

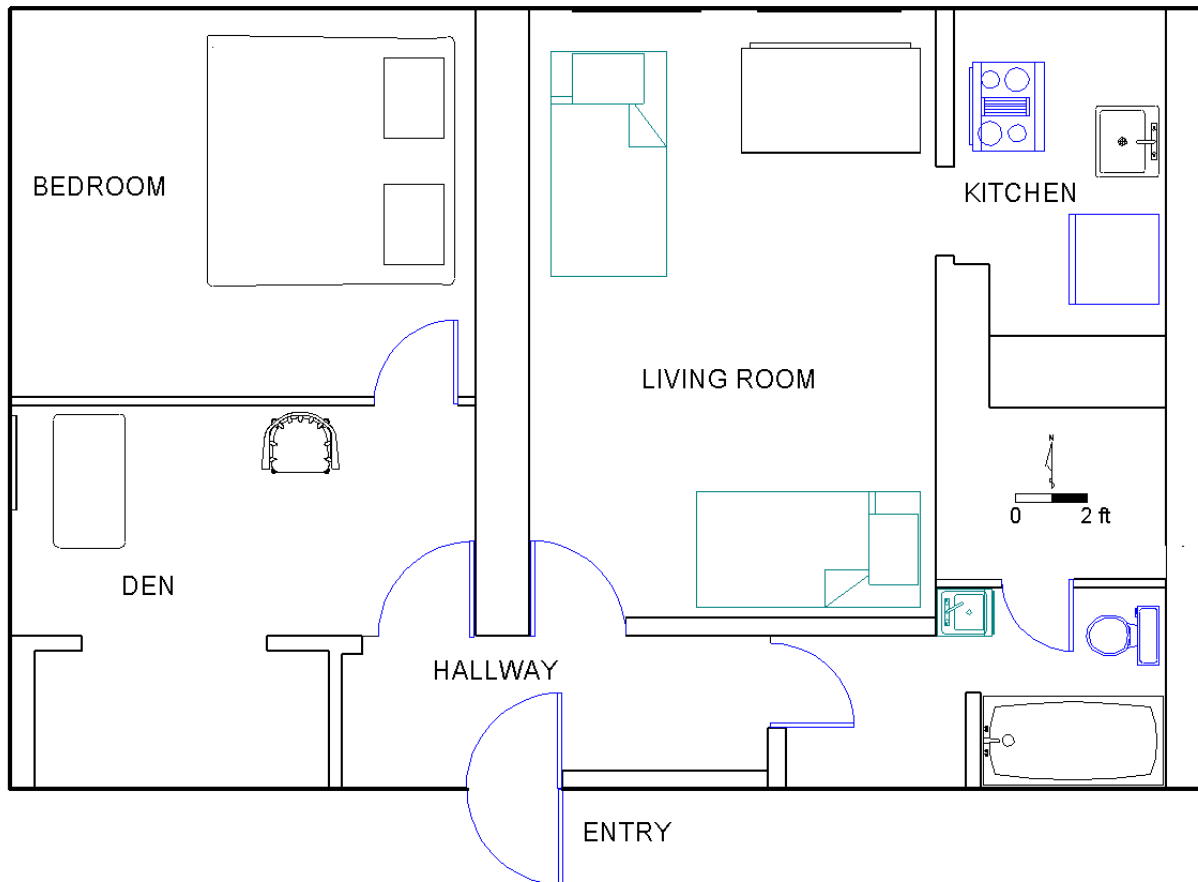
<sup>3</sup> Alan Aparicio, male Hispanic, 5 feet 6 inches tall, 180 pounds, date of birth October 21, 1992 (25 years old). Gabina Flores also went by the name Gabina Flores Quintero.

<sup>4</sup> Victim Benjamin Aparicio's transcribed statement, Page 7, Lines 22-25, and Page 9-10, Lines 5-1. According to Victim Aparicio, Alan Aparicio received medication for Schizophrenia, monthly, by injection at a medical facility.

<sup>5</sup> Benjamin Aparicio's statement, Page 7, Lines 22-25; Page 18, Lines 17-24; and Page 20, Lines 3-20.

had a separate door and was utilized as an additional bedroom for Benjamin and Alan Aparicio. The following diagram depicts the layout of the apartment at the time of the incident.

## 4223 South Hoover Street Apartment 6



At approximately 1800 hours, Victim Aparicio was in his bedroom when he heard his son Alan arrive home. According to Victim Aparicio, Alan entered the apartment and slammed the front door behind him. Victim Aparicio exited his bedroom and contacted Alan in the hallway area. According to Victim Aparicio, Alan appeared to be very angry and possibly under the influence of narcotics.

According to Victim Aparicio, he asked Alan, *"What's the matter?"* at which time Alan replied, *"Shit"* and punched him once on his left eye.<sup>6</sup> As a result, Victim Aparicio felt dizzy and began bleeding from his nose. According to Victim Aparicio, following the assault, Alan went into the living room, laid down, and went to sleep.

**Note:** During a subsequent interview with Alan Aparicio, he admitted to punching Victim Aparicio two times.

<sup>6</sup> Victim Aparicio's statement, Page 13, Lines 2-22.



At the time of his interview, Victim Aparicio had visible swelling, bruising, and redness to his left eye and nose. It was later determined that Victim Aparicio sustained a nasal bone fracture.

**OIG Note No. 2:** *During Alan Aparicio's interview with FID, he did state at one point that he had punched his father two times. He also contradicted himself, however, saying both that he punched his father and that he did not punch his father.*<sup>7</sup>

A short time later, Gabina Flores arrived home from work. Upon her arrival, she observed blood on the floor in the hallway. Victim Aparicio told Flores about the assault and requested she contact the police. Flores called 911 and reported the incident.<sup>8</sup>

At approximately 1904:41 hours, CD broadcast, *"Any Southwest Unit, battery suspect there now, 4223 South Hoover Street. Suspect number one is male Hispanic, 60 years old, wearing a blue striped shirt. Suspect number two, male Hispanic, grey shirt, fist fighting at the location, Code Two Incident 5206, RD 396."*

At approximately 1905:05 hours, Southeast Patrol Division uniformed Police Officer III Sal Obaidee, Serial No. 37305, driver, and Police Officer I Ricardo Huerta, Serial No. 43801, passenger, were on loan to Southwest Patrol Division and assigned Unit 3X95W3.<sup>9</sup> They advised CD that they would handle the call and responded to the location Code Two (Investigators' Note No. 2).<sup>10</sup>

**Note:** Officer Obaidee believed the radio call was for an Assault with a Deadly Weapon (ADW).

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<sup>7</sup> Alan Aparicio's statement, Page 15, Line 19 to Page 16, Line 21.

<sup>8</sup> The 911 call was made in Spanish. Force Investigation Division (FID), Detective II Alberto Rosa, Serial No. 26598, a fluent Spanish speaker, translated the 911 call for the Investigating Officer. During the call, Flores advised Communications Division (CD) that her son (Alan Aparicio) and husband (Victim Aparicio) got into a physical altercation. She provided descriptions of both individuals. Flores reported that Victim Aparicio was injured but declined an ambulance.

<sup>9</sup> Police Officer III Sal Obaidee, 14 years, 8 months with the Department, 39 years of age, 5 feet 7 inches tall, 173 pounds. Police Officer I Ricardo Huerta, 7 months with the Department, 24 years of age, 5 feet 6 inches tall, 162 pounds. Officers Obaidee and Huerta were each carrying Department approved pistols, their TASERs, as well as their PR-24 batons. Officer Obaidee carried one pair of handcuffs and Officer Huerta carried two pairs. In addition, Officer Huerta was carrying a canister of Oleoresin Capsicum (OC) spray and a Hobble Restraint Device (HRD) on his person.

<sup>10</sup> On the date of this incident, Officer Huerta was a Phase Two Probationary Officer with approximately 3 weeks of field experience. Officer Huerta worked with Officer Obaidee during that three-week period. According to Officer Obaidee, he would regularly discuss tactics with Officer Huerta including: contact and cover, less lethal options, the type and caliber of pistols they carry, and general tactics such as responding to radio calls and going Code Six. According to Officer Obaidee, while en route to the radio call, he and his partner discussed the comments of the call and going Code Six.

According to Officer Huerta, the radio call was not broadcast by CD. It was sent via their Mobile Data Computer (MDC).

At approximately 1909:15 hours, Officers Obaidee and Huerta arrived at scene.<sup>11</sup> As they approached the location, Officer Huerta updated their status to Code Six via their MDC. Officer Obaidee parked their vehicle a few buildings south of the location, near the northwest corner of South Hoover Street and Forty Second Place. Both officers exited the vehicle and walked toward Gabina Flores, who was standing on the sidewalk in front of the location. Officer Obaidee activated his BWV as he approached Flores. Officer Huerta did not activate his BWV upon arrival (Investigators' Note No. 3).

When the officers contacted Flores, she began speaking to them in Spanish. Neither officer was fluent in Spanish, however, Officer Obaidee understood portions of Flores' statement. According to Officer Obaidee, Flores advised him that her husband and another individual, got into a fight inside of their apartment. Officer Obaidee relayed the information to Officer Huerta.<sup>12</sup> Flores then directed the officers upstairs to her apartment.<sup>13</sup>

***OIG Note No. 3:*** According to Officer Huerta, "...me and my partner walked over to the woman who was the PR, and neither one of us spoke Spanish, so we kind of just had to piece together what she was saying. Just what we got was, okay, her husband is upstairs and the man that beat him is still there as well."<sup>14</sup>

As the Officers walked toward Flores' residence, Officer Obaidee asked if she had keys to the apartment. Flores advised the officers that that the front door was open (unlocked). At the time of the incident, apartment number six had a wooden inner door and a metal security door on the outside. Officer Huerta stopped short of the doorway, positioning himself on the south side of the hallway, east of the front door.

At the end of the hallway, just west of Flores' apartment was a doorway that led to a balcony and additional stairwell. The doorway had a transparent metal security door and a green exit sign posted above the door. Officer Obaidee walked past Flores' apartment and checked the balcony for potential suspects. There was nobody on the balcony. According to Officer Obaidee, he ensured the door was unlocked, in the event they needed back-up.

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<sup>11</sup> The arrival time was gleaned from Officer Obaidee's Body Worn Video (BWV), during the two-minute buffering period.

<sup>12</sup> Detective Rosa reviewed Officer Obaidee's BWV and translated the conversation between Officer Obaidee and Flores. According to Detective Rosa, Flores advised Officer Obaidee that her son fought with her husband.

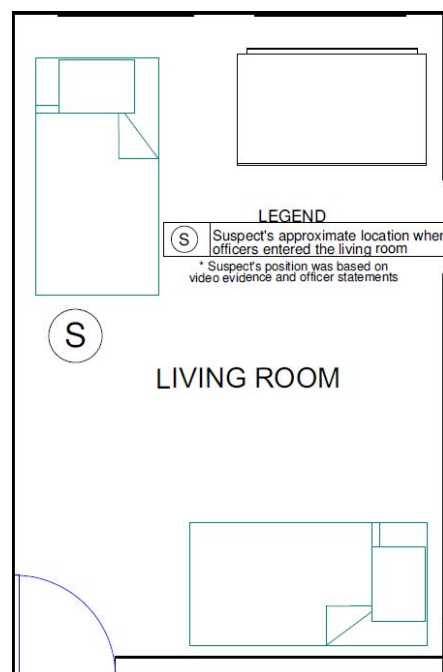
<sup>13</sup> Apartment number six was located on the second floor, on the northwest side of the building.

<sup>14</sup> Officer Huerta's first statement, Page 8, Lines 2-7.

Officer Obaidee walked back to the apartment and positioned himself on the west side of the door. He opened the metal security door and wooden interior door, which were both unlocked. Without crossing the threshold, Officer Obaidee knocked on the wooden door and verbally identified himself as a police officer. Officer Obaidee's BWV captured Victim Aparicio standing in the den, adjacent to the front door. Victim Aparicio invited the officers to enter his residence by stating in Spanish, "*Pasale*."<sup>15</sup> Flores entered the apartment and introduced Victim Aparicio as her husband.

Victim Aparicio informed the officers that his son (Alan Aparicio) hit him and directed them to a closed door that led to the living room. Officer Obaidee knocked on the door and Witness Benjamin Aparicio answered.<sup>16</sup> Officer Obaidee asked Benjamin who was fighting, and he directed the officers to Alan, who was lying on the floor, face down, and covered by a multi-colored blanket. His head was facing in a westerly direction and his feet toward the east.

The following diagram depicts Alan's approximate position when the officers entered the living room.



**Note:** According to Officer Obaidee, he knocked on the living room door and verbally identified himself as a police officer. A review of his BWV

<sup>15</sup> Gleaned from Officer Obaidee's BWV at approximately 1911:02 hours. The Spanish word "*pasale*" translated into English means enter or come in.

<sup>16</sup> Benjamin Aparicio was bilingual and spoke English and Spanish. The officers spoke with him in English. Witness Benjamin Aparicio was Victim Aparicio's other adult son. Throughout his statement, Victim Aparicio referred to Witness Aparicio as both Benjamin and Eric.

determined that he did not verbally announce his presence when he knocked on the living room door.

Officer Obaidee approached Alan and pulled the blanket back, exposing Alan's back and torso. According to Officer Obaidee, Alan was shirtless, his pants were sagging down exposing his rear waistband and boxers, his arms were out to his sides and his hands were visible. Officer Obaidee visually inspected Alan's hands and rear waistband for weapons and none were observed.

**Note:** According to Officer Huerta, Alan's hands were tucked underneath the pillow. A review of Officer Obaidee's BWV determined that Alan's arms were both bent at the elbow and resting on his pillow near his head.

When Officer Obaidee asked Benjamin what transpired, he denied any knowledge of the incident. Benjamin provided the officers with Alan's name and informed them that Alan spoke English. As captured by his BWV, Officer Obaidee then stated, "*Hey Alan, wake up man, it's the police. Alan.*"<sup>17</sup> There was no response from Alan.

Flores entered the living room and advised Benjamin, in Spanish, that Alan fought with his father (Victim Aparicio). She then removed the blanket from Alan and advised him the police were there. Officer Obaidee utilized Benjamin as a translator to get additional information from Flores and Victim Aparicio. Flores told Benjamin that she wanted Alan arrested for assault and he relayed that information to the officers. Benjamin further advised the officers that Alan *attacked* Victim Aparicio.<sup>18</sup> The officers decided to detain Alan for a battery and potential assault with a deadly weapon investigation.

**OIG Note No. 4:** *Benjamin Aparicio Jr. was home at the time of the assault on his father and was present during the arrest of his brother. He was later interviewed by FID, and he stated during his interview that he could not remember much because he had been smoking "weed" and was "kind of high".*<sup>19</sup>

As captured on BWV, Officer Obaidee advised Officer Huerta, they were going to handcuff Alan. Since Alan was lying on his stomach, Officer Obaidee was unable to see his front waistband. Therefore, Officer Obaidee planned to assist Alan to a standing position, handcuff him, and then check his front waistband for weapons.

**OIG Note No. 5:** *According to Officer Obaidee's initial interview with FID, his plan was to handcuff Alan Aparicio on the ground. He stated, "Well, initially when we were trying to put his hands behind his back, our attempt*

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<sup>17</sup> Gleaned from Officer Obaidee's BWV at approximately 1912:07 hours.

<sup>18</sup> Gleaned from Officer Obaidee's BWV, at approximately 1913:28 hours.

<sup>19</sup> Benjamin Aparicio Junior's statement, Page 13, Lines 7-8.

*was to handcuff him and sit him up. But he physically actually got up, pulled his arms away from me.”<sup>20</sup>*

*During his second interview with FID, Officer Obaidee provided a different account of his plan to handcuff Alan Aparicio, stating, “My intentions were to stand him up and handcuff him just because his front - - front waistband wasn't cleared yet.”<sup>21</sup>*

*According to Officer Huerta, the officers initially planned to handcuff Alan Aparicio while he was on the ground. Officer Huerta told FID, “We went to place his arms behind his back and cuff him up. At which point the suspect began to fight back and resist. As he got up, he was - - had a lot of sweat on him, so when he shifted his weight to the right, I lost grip of his left arm as he started going towards my partner.”<sup>22</sup> Officer Huerta further stated, “When we were trying to cuff him on the ground, he stood up and he started moving his arms, moving his body weight.”<sup>23</sup>*

As the officers approached Alan, Officer Obaidee directed Officer Huerta to control his left arm and said he would control the right arm. According to Officer Obaidee, he stepped over Alan and positioned himself on the right side of Alan's body. Officer Obaidee then told Alan, “Hey man, you need to listen to us dude. It's the police. Okay?”<sup>24</sup>

As captured by BWV, Officer Obaidee grabbed Alan's right wrist with his right hand. Simultaneously, Officer Huerta grabbed Alan's left wrist with his left hand. As the officers attempted to place Alan's hands behind his back, he tensed up. Alan abruptly began to stand up, at which time Officer Obaidee placed his left hand on Alan's right shoulder and ordered him to relax multiple times.

**Note:** According to Officer Obaidee, he did not specifically recall why he placed his left hand on Alan's right shoulder during the incident.

According to Officer Huerta, Alan was sweating profusely, causing his skin to be very slippery. Alan stood up and began pulling and swinging his arms violently causing Officer Huerta to lose his grip on Alan's left arm. According to Officer Huerta, Alan was also moving his legs around, in a kicking manner, and nearly kicked his (Officer Huerta's) shin.

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<sup>20</sup> Officer Obaidee's first statement, Page 18, Lines 2-6.

<sup>21</sup> Officer Obaidee's second statement, Page 26, Lines 12-14.

<sup>22</sup> Officer Huerta's first statement, Page 9, Lines 19-24.

<sup>23</sup> Officer Huerta's first statement, Page 12, Lines 19-21.

<sup>24</sup> Gleaned from Officer Obaidee's BWV, at approximately 1913:39 hours.

According to Officer Obaidee, as they grabbed Alan's wrists in an attempt to put his hands behind his back, Alan tightened his upper body and attempted to pull his arms inward, in an attempt to prevent officers from handcuffing him. As captured by BWV, Officer Obaidee maintained his grip on Alan's right wrist, and grabbed Alan's right bicep area with his left hand. According to Officer Obaidee, Alan turned toward him, causing him to lose his footing.

According to Victim Aparicio, *"When he (Alan) got up, they (Officers Obaidee and Huerta) grabbed him, and he wanted to fight...he wouldn't let them grab him by the hands, but they grabbed him by the hands. They wanted to handcuff him, and he wouldn't let himself...and he started kicking and everything."*<sup>25</sup>

Officer Huerta grabbed Alan's waist from behind and attempted to pull him away from Officer Obaidee. Officer Huerta's efforts to pull Alan away from Officer Obaidee were unsuccessful. According to Officer Obaidee, Alan pushed him backward in a *"tackling motion"* causing him to fall onto the bed that was located along the south wall.

**Note:** During the struggle, both officers' BWVs were dislodged from their chests. Officer Huerta's BWV fell onto the floor and Officer Obaidee's fell on the bed. The camera view on Officer Obaidee's BWV was obstructed by a blanket; however, the audio was still functioning.

**OIG Note No. 6:** *As previously referenced in the FID summary, Officer Huerta did not activate his BWV until after the use of force had occurred. Officer Huerta was asked by FID why that happened, and he replied, "I forgot to activate it, sir, before responding to the call."*<sup>26</sup>

According to Officer Obaidee, he landed on his back, with Alan on top of him. Alan was lying face down across Officer Obaidee's torso, with his head under Officer Obaidee's right arm/armpit. Officer Huerta maintained his grasp on Alan's waist and attempted to pull Alan off his partner. Officer Obaidee directed Officer Huerta to request a back-up.

At approximately 1913:55 hours, Officer Huerta broadcast a back-up request to CD. As Officer Huerta made the broadcast, Officer Obaidee felt Alan tugging on his holstered pistol. He then heard one of the snaps on his double-retention holster unsnap. This caused Officer Obaidee to form the opinion that Alan was attempting to disarm him.

Officer Obaidee feared that Alan was going to disarm him, then shoot him and his partner. Officer Obaidee believed this was a deadly force situation. With regards to his decision to apply a CRCH, Officer Obaidee stated, *"I felt it was the only option I had to*

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<sup>25</sup> Victim Aparicio's statement, Pages 27-28, Lines 16-3.

<sup>26</sup> Officer Huerta's first statement, Page 38, Lines 22-23.

*defend myself from someone attempting to take my firearm away from me. No other option would be feasible at the time.*"<sup>27</sup>

**Note:** According to Officer Huerta, he could not see Alan's hands on his partner's gun. Officer Huerta stated, *"I just saw his hands being in that general vicinity around his waist/Sam Browne area."*<sup>28</sup>

According to Officer Obaidee, he immediately applied a *reverse carotid restraint hold (CRCH)* on Alan.<sup>29</sup> According to Officer Obaidee, while lying on his back, he placed his right arm over the back of Alan's neck. He bent his elbow and placed the inner boney portion of his right forearm against the left side of Alan's neck.<sup>30</sup>

Officer Obaidee grasped his left hand with his right hand, palm to palm, and applied tension to his palms to lock in the CRCH. Officer Obaidee lifted his hips off the bed and applied upward pressure to the left side of Alan's neck for a duration of approximately two to three seconds (Investigators' Note No. 4).

The following photographs are a demonstration of how the CRCH was applied, as explained by Officer Obaidee (Investigators' Note No. 5).



According to Officer Obaidee, the CRCH was effective because Alan immediately went limp and stopped resisting. That caused Officer Obaidee to believe that Alan may have lost consciousness for a brief time. Once Alan stopped resisting, Officer Obaidee released the CRCH.

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<sup>27</sup> Officer Obaidee's first statement, Page 32, Lines 8-11.

<sup>28</sup> Officer Huerta's first statement, Page 50, Lines 14-16.

<sup>29</sup> Officer Obaidee's first statement, Page 14, Lines 5-6.

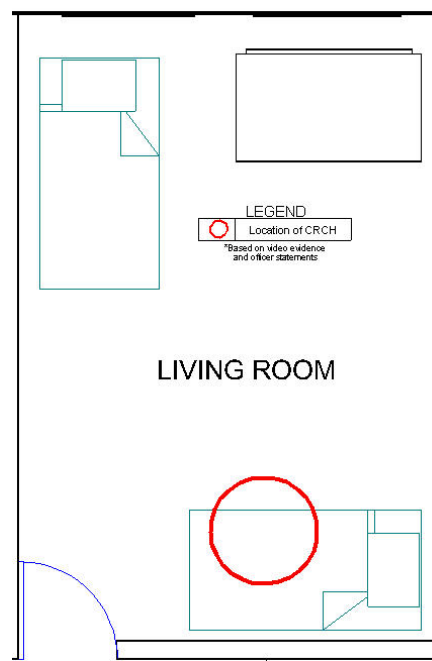
<sup>30</sup> According to Officer Obaidee, the technique he utilized resembled a headlock. According to Officer Obaidee, he had received non-department training, two to three times per week, in Jiu Jitsu for the past several years and was a blue belt at the time of this incident.

**Note:** According to Officer Huerta, he observed Alan's head beneath Officer Obaidee's arm, and noted that Alan was kicking his legs. However, Officer Huerta was unaware that Officer Obaidee applied a CRCH.

According to Officer Obaidee, he did not have time to inform his partner that Alan was attempting to disarm him, prior to applying the CRCH. According to Officer Obaidee, he did not have time to issue a verbal use of force warning before applying the CRCH, because the suspect was pulling on his pistol and it wasn't feasible.

According to Victim Aparicio, when Alan initially stood up and began resisting, he observed an officer place his right wrist/inner forearm against the left side of Alan's neck for approximately five seconds. According to Victim Aparicio, the officer was standing behind Alan when he did so. Victim Aparicio described the officer as Latino, but could not provide any further description.

The following diagram depicts the officers' approximate positions at the time of the CRCH, based on video analysis and officers' statements.



While lying on his back, Officer Obaidee used both hands to try and push Alan off him and onto the floor. As he did so, Officer Huerta used both his hands and pulled backward on Alan's waist, removing Alan from the bed and onto his left side on the living room floor.



**Note:** Officer Obaidee was uncertain about the placement of his hands when he pushed Alan off his body. However, he believes he pushed Alan's front shoulder area.

According to Officer Obaidee, Alan quickly regained consciousness and continued to fight and resist the officers by moving and swinging his arms violently, with clenched fists. According to Officer Obaidee, he was unsure if Alan was attempting to strike him or just prevent them from taking him into custody. Alan rose up onto his knees, causing Officer Obaidee to believe that Alan was attempting to stand up. Officer Obaidee grabbed Alan's right leg with his left arm, to prevent Alan from standing.

The officers attempted to place Alan face down onto his stomach, so they could handcuff him, but he continued to resist by swinging his arms. Officer Obaidee ordered Alan multiple times to lie face down, but he failed to comply with his commands.<sup>31</sup> Officer Obaidee grabbed Alan's right arm and attempted to place it behind his back. Alan responded by violently swinging his arms back and forth. Officer Obaidee used his right knee to strike Alan's right side/rib area once, and his right elbow to deliver two strikes to Alan's back. Officer Obaidee attempted to grab Alan's right arm to handcuff him, but Alan continued to resist the officers by "*flinging*" his arms. Officer Obaidee punched Alan's right side/rib area with his right fist. According to Officer Obaidee, after the punch was delivered, Alan stopped resisting and complied with the officers.

**Note:** According to Officer Obaidee, he ordered Alan multiple times to stop resisting and stop fighting. A review of the BWV determined that Officer Obaidee did not give those specific commands. However, at approximately 1914:33 hours on his BWV, Officer Obaidee can be heard yelling, "*Stop, stop!*"

According to Alan, he did not hear the officers give any commands throughout the entire incident.

**OIG Note No. 7:** *Alan Aparicio was not specifically asked whether he heard the officers giving any commands throughout the incident. At one point during his interview, FID asked him, "So, when the police came, did they say anything to you?" He replied, "No."<sup>32</sup> Later in the interview, FID addressed what occurred after the police woke him up, asking him, "And did they say anything to you?" He again replied, "No."<sup>33</sup> Then, when FID asked Alan Aparicio to tell them what happened from his perspective, he replied, "I just fucking - - I just - - I just - - I just went to (Inaudible) just*

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<sup>31</sup> At approximately 1914:14 hours, Officer Obaidee's BWV captured him order Alan to, "*Turn around. Facedown, facedown!*"

<sup>32</sup> Alan Aparicio's statement, Page 8, Lines 3-5.

<sup>33</sup> Alan Aparicio's statement, Page 10, Line 25 to Page 11, Line 1.

*went - - went - - just tried just fucking to - - to do what they said and that's it.*"<sup>34</sup>

According to Officer Obaidee, to control Alan's movements, he placed his right knee on Alan's right shoulder area and applied body weight. According to Officer Huerta, Alan was still laying on his left shoulder. Officer Huerta pinned Alan's legs down using his right leg, while simultaneously attempting to control Alan's left wrist. According to Officer Huerta, Officer Obaidee was verbalizing with Alan to roll on to his stomach. According to Officer Huerta, he used a firm grip to take control of Alan's left wrist and pin it against Alan's back. Officer Huerta observed that Officer Obaidee had Alan's right arm pinned, so Officer Huerta removed his handcuffs from their pouch and handcuffed the left wrist. Officer Obaidee passed Alan's right wrist to him, and Officer Huerta completed the handcuffing.<sup>35</sup>

**Note:** According to Officer Obaidee, he could not recall if he completed the handcuffing or it was Officer Huerta.

Based on Alan's behavior and fact that he was sweating profusely, Officer Obaidee formed the opinion that he was under the influence of a controlled substance; possibly methamphetamine or phencyclidine (PCP), or possibly suffered from mental illness. Based on these observations, combined with Alan's prior actions, Officer Obaidee believed it was unsafe to place Alan in a sitting or standing position. Therefore, he and Officer Huerta held Alan in a prone position until additional units arrived at scene.

While the officers waited for additional units to arrive, they utilized body weight to restrict Alan's movements. Officer Huerta maintained body weight to Alan's legs, with his right leg on Alan's hamstrings and held Alan's left elbow down, using his left hand.

Officer Obaidee used his left hand to apply a firm grip on Alan's wrists and placed his right knee on Alan's right shoulder area, a second time, and applied body weight.

According to Witness Benjamin Aparicio, he was in the living room at the time of the incident. Benjamin said the officers asked Alan to stand up, but Alan did not comply with their commands. He then observed the officers *wrestling* with Alan.<sup>36</sup> According to Benjamin, he did not observe Alan attempt to remove any items from the officers' Sam Brownes.<sup>37</sup>

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<sup>34</sup> Alan Aparicio's statement, Page 11, Lines 23-25 to Page 12, Line 1

<sup>35</sup> According to Officer Obaidee, his right knee remained on Alan's right shoulder area for approximately six to 10 seconds during the handcuffing process.

<sup>36</sup> Witness Benjamin Aparicio's statement, Page 12, Lines 15-21.

<sup>37</sup> According to Witness Benjamin Aparicio, he was under the influence of Marijuana at the time of the incident.

At approximately 1914:21 hours, Southeast Patrol Division, uniformed Sergeant I Jennifer Cohen, Serial No. 38352, on loan to Southwest Patrol Division, advised CD that she was responding to the back-up. She was assigned Unit 3L220W7.

At approximately 1914:42 hours, Officer Obaidee's BWV captured him attempt to broadcast, "3X95, *did you receive my back-up?*" He received no response from CD. Officer Obaidee then directed either Flores or Benjamin to go downstairs and direct the responding officers to their location. At approximately 1916:27 hours, Officer Obaidee's BWV captured him attempt to broadcast, "X95, *do you have units responding to the back-up or not?*" Again, he received no response from CD.

**Note:** Officer Obaidee's broadcasts were not captured on Southwest Frequency; however, they were captured on his BWV.<sup>38</sup>

Following Officer Huerta's initial back-up request, CD attempted to raise them multiple times on Southwest Frequency with negative results.

At approximately 1916 hours, Air Support Division, Pilot, Police Officer II+6 Victor Pappas, Serial No. 34661, and Tactical Flight Officer, Police Officer II+5 Heather Hansen, Serial No. 35399, Unit Air 10, arrived over the location. Officer Hanson communicated with Officer Obaidee via Southwest Frequency Simplex. As captured by his BWV, Officer Obaidee advised the air unit that he was in apartment number six, approximately two buildings north of where his police vehicle was parked. He also informed the air unit that they had a suspect in custody and were holding him down.

At approximately 1916:35 hours, 77<sup>th</sup> Street Patrol Division, uniformed Sergeant I Ruben Gonzalez, Serial No. 38572, Unit 3L30, on loan to Southwest Patrol Division, arrived at scene. Upon his arrival, he advised CD that he was Code Six on the back-up.<sup>39</sup>

Shortly thereafter, Southwest Patrol Division uniformed Police Officers II Eduardo Salazar, Serial No. 42996 and Joshua Morrison, Serial No. 42993, Unit 3A62, arrived at scene, along with multiple other units.<sup>40</sup> The front door of the apartment building was locked and the officers were initially unable to gain access. According to Sergeant

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<sup>38</sup> According to Officer Obaidee, he made multiple attempts to verify if CD received his back-up request; however, his radio was assigned to Southeast Patrol Division. Since he was on loan to Southwest Patrol Division, he switched to their Base Frequency. He was unsure why CD was unable to hear his broadcasts.

FID Detectives reviewed Southeast and Southwest Base Frequency from June 4, 2019, between 1900 hours and 1930 hours. Officer Obaidee's voice was not heard making these broadcasts on either frequency.

<sup>39</sup> Sergeant Gonzalez' arrival time was gleaned from his Digital In-Car Video (DICV).

<sup>40</sup> The arrival time was gleaned from Officer Morrison's BWV.

Gonzalez, he directed the officers to the rear of the location to look for an alternate entrance. Sergeant Gonzalez remained in front of the location.

Meanwhile, Officer Hanson advised Officer Obaidee that units were at scene and trying to make entry into the building. Officer Hansen requested CD contact the Person Reporting (PR) and have someone open the front door for the responding officers.

At approximately 1917 hours, Southeast Patrol Division, uniformed Sergeant I Gabriel Ruiz, Serial No. 37408, Unit 3L20W3, on loan to Southwest Patrol Division, and Sergeant Cohen arrived at scene and met with Sergeant Gonzalez. Within seconds, Flores opened the front door of the apartment building. All three sergeants entered the building and were the first officers at scene (Investigators' Note No. 6).

Upon entering the apartment, Sergeant Ruiz' BWV captured Officers Obaidee and Huerta restraining Alan on the living room floor. Officer Obaidee advised the sergeants that there was a Code Four, and assisted Alan to a standing position. At approximately 1917:49 hours, Sergeant Gonzalez broadcast a Code Four.<sup>41</sup>

Officers Salazar and Morrison, along with the other responding officers, were unable to locate a rear entrance. They ran back to the front of the building and made entry through the front door. Officer Obaidee relinquished custody of Alan to Officer Salazar. Officers Salazar and Morrison walked Alan downstairs to the sidewalk, in front of the location.

Southwest Patrol Division, Police Officer II Daylon Gomez, Serial No. 42758, Unit 3A1W2, conducted a custodial search of Alan Aparicio's person. No weapons or contraband were recovered.

As captured on her BWV, at approximately 19:19:07 hours, Officer Obaidee informed Sergeant Cohen he was involved in a use of force. Initially, Sergeant Cohen believed a Non-Categorical use of force occurred and began to investigate it as such. Using her cellular phone, she took photographs of the scene as well as Officers Obaidee and Huerta.<sup>42</sup> At approximately 19:21:21 hours, Officer Obaidee advised Sergeant Cohen of the CRCH.<sup>43</sup>

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<sup>41</sup>Officer Obaidee was unsure how long his knee remained on Alan's shoulder the second time. However, he estimated that Alan remained on his stomach for a period of approximately two to four minutes, from the time of handcuffing, until the first unit arrived at scene. According to Officer Obaidee, during that time frame, Alan was breathing, speaking with the officers, and did not appear to be in any distress.

<sup>42</sup> Sergeant Ruiz' BWV captured him and Sergeant Cohen asking several different officers for a camera at scene; however, none were available.

<sup>43</sup> Officer Obaidee advised Sergeant Cohen that he placed the suspect into a "*choke hold*." His statement was captured on Sergeant Ruiz' BWV as well as the BWV of Southeast Patrol Division, Police Officer II Davon McCoy, Serial No. 42946.

**Note:** The photographs taken by Sergeant Cohen were stored under File No. 659493.

At approximately 1924:55 hours, Police Officer II Zachary Hayden, Serial No 42980, requested a Rescue Ambulance (RA) for Alan Aparicio.<sup>44</sup>

**Note:** As captured on CD audio, Officer Hayden broadcast, *“3A15, can we get an RA to our location at the backup for a male, approximately 20 years of age, suffering from contusions and scrapes to his left shoulder.”* There was no mention of the CRCH in this broadcast.

At approximately 1929 hours, Los Angeles Fire Department (LAFD), RA No. 846, staffed by Firefighter/Emergency Medical Technicians (FF/EMT) Jerome Steward, Serial No. 394266 and Jong Park, Serial No. 385110, arrived at scene and rendered aid to Alan Aparicio. Upon their arrival, they were met by Southeast Patrol Division, uniformed Police Officer II Ephraim Aramburo, Serial No. 38265, who advised them that Aparicio was in custody, there was a use of force, and officers applied a CRCH. There was no mention of Aparicio losing consciousness.<sup>45</sup>

According to FF/EMT Steward, Alan Aparicio was examined for the application of the CRCH and released back to the care of the officers.

**Note:** According to FF/EMT Steward, if they were advised Alan Aparicio lost consciousness during the incident, they would have requested LAFD paramedics respond to the scene.<sup>46</sup>

Officer Aramburo was interviewed by FID investigators on January 21, 2020. According to Officer Aramburo, he did not remember the specifics of the incident and did not recall if Aparicio lost consciousness. Officer Aramburo had no independent recollection of the conversation he had with FF/EMTs Steward and Park.

According to his Watch Commander’s log, at approximately 1930 hours, Sergeant Cohen notified the Southwest Patrol Division Watch Commander, Lieutenant I Don Byeon, Serial No. 30929, of the use of force. According to Sergeant Cohen, she advised Lieutenant Byeon a use of force occurred involving a *“choke hold”* (Investigators’ Note No. 7).

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<sup>44</sup> Officer Hayden was regularly assigned to 77<sup>th</sup> Patrol Division, on loan to Southwest Patrol Division, working Unit 3A15W3.

<sup>45</sup> The conversation between Officer Aramburo and FF/EMTs Steward and Park was captured on Officer Aramburo’s DICVS, Shop No. 80388.

<sup>46</sup> According to LAFD Captain Robert Barna, all firefighters are qualified EMTs and are trained in basic life support. Firefighter/Paramedics have a higher level of medical training and skillset.

At approximately 1938:17 hours, Officers Salazar and Morrison transported Alan Aparicio to Southwest Station.<sup>47</sup>

At approximately 2030 hours, Lieutenant Byeon notified FID, Lieutenant II Damian Gutierrez, Serial No. 30050. Lieutenant Gutierrez advised Lieutenant Byeon that Alan Aparicio must be examined by a physician at a contract hospital or jail dispensary.<sup>48</sup>

At approximately 2035 hours, Lieutenant Gutierrez notified the Department Operations Center (DOC) of the Categorical Use of Force (Addendum No. 1).

At approximately 2215 hours, Force Investigation Group, Commanding Officer, Commander Robert Marino, Serial No. 27226, was the first representative from FID to arrive at scene.

At approximately 2326:03 hours, Harbor Patrol Division, Police Officers II Taylor Smith, Serial No. 41944 and Jonathan Bryant, Serial No. 41858, Unit 3A57, on loan to Southwest Patrol Division, transported Alan Aparicio to 77<sup>th</sup> Street Jail Dispensary for an additional medical evaluation. Southeast Patrol Division, Sergeant I Arnold Castellanos, Serial No. 40202, accompanied the officers.

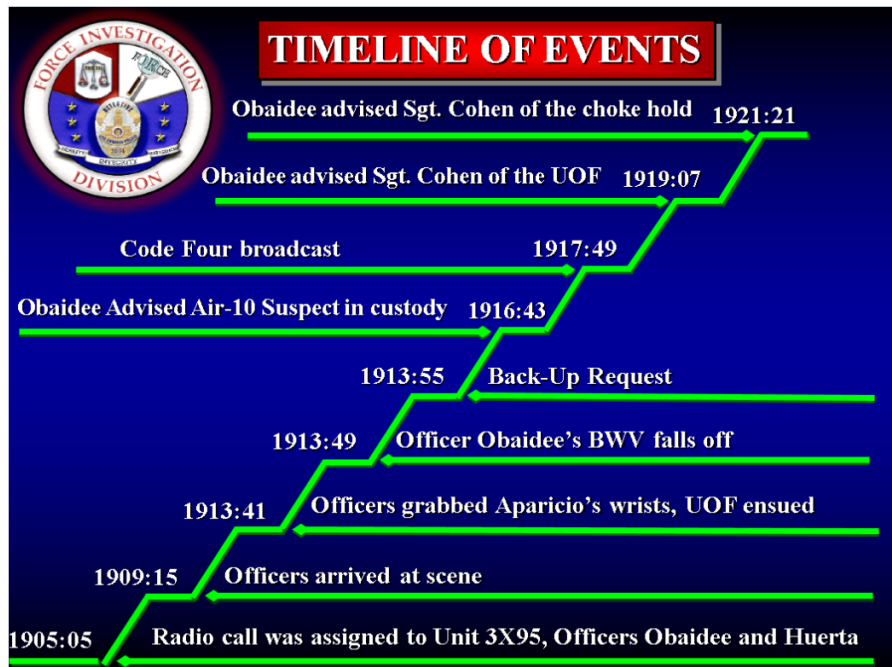
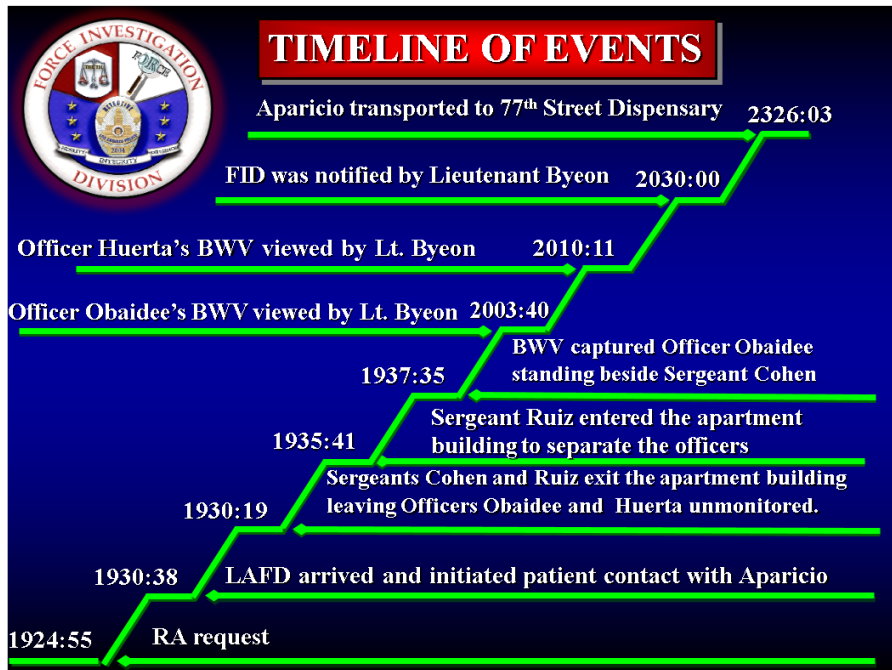
Force Investigation Division, Detective II Paul Bowser, Serial No. 35842, reviewed the documents regarding the separation, monitoring and admonitions not to discuss the incident prior to being interviewed by FID investigators. The investigation revealed that there were deviations from the standard protocols. The following timeline depicts the sequence of events from the time officers received the radio call to the time Alan Aparicio was transported to 77<sup>th</sup> Jail (Investigators' Note No. 8 and Addendum No. 2).

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<sup>47</sup> The transport time was gleaned from Officer Salazar's BWV.

<sup>48</sup> As specified on Page 3 of the LAPD Training Bulletin, Carotid Control Restraint Holds, dated August 2005.



## Scene Description

The incident occurred inside the residence of 4223 South Hoover Street, apartment number six. This location was a two-story, multi-unit apartment building located on the west side of Hoover Street. Apartment number six was a one-bedroom apartment, located on the second floor toward the west side of the building.

Hoover Street was a north/south street with a single lane of traffic in each direction and parking along the east and west curbs. The surrounding area was a mixture of multi-unit apartment buildings, single family residences, and commercial businesses.

The incident occurred indoors, during day light hours, at approximately 1905 hours. Apartment number six was illuminated by ambient sunlight entering through the kitchen window, as well as artificial lighting emitting from a ceiling fan. The outside environmental conditions were dry and sunny with clear skies.

### **Canvass for Witnesses**

On June 4, 2019, Southwest Patrol Division and FID personnel conducted a canvass of the area for witnesses to the incident. Unless otherwise noted, the statements of all witnesses were recorded and transcribed and are contained in this report.

On June 26, 2019, FID personnel conducted an additional canvass of the area. No additional witnesses were identified.

### **Suspect Information**



Alan Aparicio was a male Hispanic with black hair and brown eyes. At the time of the incident, he was five feet, six inches tall, with a weight of 180 pounds. He was 26 years old with a date of birth of October 21, 1992. Aparicio was identified by CII No. A27796450 and had an extensive criminal history dating back to January of 2013. He had three prior misdemeanor convictions (Addendum No. 3).

On June 5, 2019, FID, Sergeant II Richard Brunson, Serial No. 32828 and FID, Criminal Apprehension Team (CAT) Detective II Joseph Kirby, Serial No. 36857, interviewed Alan Aparicio. Detective Kirby admonished Aparicio of his Miranda Rights. Alan waived his rights and agreed to provide a statement.

The following is a synopsis of his interview: Alan Aparicio admitted to punching his father twice on the face. He denied fighting with the officers or attempting to disarm Officer Obaidee. According to Aparicio, at some point, the officers threw him to the ground and handcuffed him. Aparicio did not recall the officers giving him any commands or the CRCH being applied to him. Aparicio said he does not take any medication.

**Note:** Page nine of Alan Aparicio's transcribed interview, indicates that he informed investigators that the officers punched him. A review of the audio interview determined that Alan never said the officers punched him.



During the interview, Detective Brunson asked Alan if the officers punched or kicked him and he replied said no.<sup>49</sup>

Los Angeles Police Department Investigative Reports were completed for Felony Battery against Victim Aparicio and Resisting Arrest against Officers Obaidee and Huerta, all naming Alan Aparicio as the suspect (Addendum No. 4).

Force Investigation Division, CAT Detective II Jose Chavez, Serial No. 27375, completed an Arrest Report for Alan Aparicio, booking him under California Penal Code (PC) Section 243 (D) – Felony Battery. Aparicio was booked at 77<sup>th</sup> Street Jail Division (Addendum No. 5).

On June 7, 2019, the case was presented to the Los Angeles County District Attorney's Office for filing consideration. Deputy District Attorney Craig Rouviere filed two felony counts against Alan Aparicio for Resisting Arrest, 69 PC, and Felony Battery, 245(A)(4) PC.

A LAPD Follow-Up Investigation Reports were completed with a case status of Cleared by Arrest (Addendum No. 6).

On August 12, 2019, Alan Aparicio's criminal case reached a disposition, and he was sentenced to two years of diversion for each count.

The investigation revealed that Alan Aparicio had 13 prior contacts with Los Angeles Police Department's (LAPD), Mental Evaluation Unit (MEU). The most recent contact was on May 13, 2019.

On December 10, 2019, due to the circumstances of this case, Detective Bowser contacted CD and entered Alan Aparicio's address into special locations.

On December 17, 2019, Detective Bowser contacted MEU, Case Assessment Management Program (CAMP), Detective III Nelly Nava Mercado, Serial No. 31586, and referred Alan for the program.

## **Injuries**

At approximately 1927 hours, LAFD, RA No. 846, staffed by FF/EMTs Park and Steward received an alarm to respond to 4223 South Hoover Street. At approximately 1929 hours, they arrived at scene and rendered aid to Alan Aparicio due to the CRCH incident and abrasions he sustained to his right shoulder. He was not transported to the hospital and was released into the officers' care.

At approximately 2315 hours, Alan Aparicio was transported to the 77<sup>th</sup> Street Jail Dispensary to be examined by Dr. Roland Lee. He was cleared and released for

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<sup>49</sup> Alan Aparicio's statement, Page 14, Lines 10-12.

booking and signed a medical waiver authorizing the release of his medical records (Addendum No. 7).

**Note:** The first page of Alan Aparicio's medical records erroneously describes his abrasion as being on his left shoulder.

Photographs of Alan Aparicio's injuries were stored under D No. 0769601.

At approximately 1956 hours, RA No. 846, received a second alarm to respond to 4223 South Hoover Street. They arrived at scene at approximately 1959 hours and rendered aid to Victim Aparicio. Victim Aparicio declined transportation to the hospital and said he would seek his own medical treatment if necessary.

On June 5, 2019, Victim Aparicio received medical treatment at Los Angeles County, University of Southern California Medical Center (LAC-USCMC). He was treated by Dr. Zheng for a nasal bone fracture (Addendum No. 8).

**Note:** Photographs of Victim Aparicio's injuries were stored under D Nos. 0769601 and 659495.

As result of this incident, Officer Obaidee complained of pain to his right wrist. According to Officer Obaidee, he reported the injury to Sergeant Cohen. On July 1, 2019, Detective Bowser followed up with Officer Obaidee regarding his wrist injury. According to Officer Obaidee, he declined medical treatment for his wrist.

## **Evidence**

As a result of this investigation, six items of evidence were recovered and booked under DR No. 1903-14269. The items included were swabs taken from Officer Obaidee's pistol, holster, handcuff pouch and ammunition pouch, for potential biological evidence. A buccal swab was collected from Alan Aparicio (Addenda Nos. 9 and 10).

On July 2, 2019, Detective Bowser completed a request for Serology/Deoxyribonucleic Acid (DNA) Analysis Report, Form No. 12.56.00. Detective Bowser requested that the swabs collected from Officer Obaidee's pistol, holster, handcuff and ammunition pouches be compared to Alan Aparicio's buccal swab.

Forensic Sciences Division (FSD) Criminalist II Robert Broderick, Serial No. N3398, analyzed the DNA swabs collected as evidence. The laboratory report was finalized on September 19, 2019, and revealed that the swab collected from the top portion and the snap (Item Nos. 3 and 4) of Officer Obaidee's holster did not match Alan Aparicio's DNA profile, and excluded him as a contributor.

The swabs collected from the handcuff and ammunition pouches (Item No 6) contained DNA from multiple contributors. Therefore, due to the complexity of the data, the DNA results were unsuitable for interpretation. In addition, the swabs collected from the

pistol and lower portion of the gun holster (Item Nos. 2 and 5) contained insufficient amounts of DNA. Therefore, they were not analyzed (Addendum No. 11).

## **Visual Documentation**

### **Digital In-Car Video System (DICVS):**

Multiple police vehicles equipped with DICVS responded to this incident, resulting in fourteen videos. All fourteen videos were recorded post incident. The videos were reviewed in their entirety by FID investigators and were found to be of no evidentiary value, as they did not capture the use of force or the moments preceding it.

### **Body Worn Video (BWV):**

There were twenty-four police officers who activated their BWV at some point during this incident. Those videos were reviewed in their entirety by FID investigators. With the exception of Officer Obaidee, all the BWVs were recorded post incident. The following is a synopsis of the BWVs that had significant evidentiary value:

- Officer Obaidee's BWV captured a portion of his response to the scene, as well as the moments leading up to the CRCH. Officer Obaidee's BWV fell off during the use of force at approximately 1913:50 hours and was recovered at approximately 1919:30 hours. Although the video was dark during that time frame, the audio captured sounds of a struggle and communication between the officers and Alan Aparicio.
- Officer McCoy activated his BWV at approximately 1914:41 hours. His video captured a portion of his response and did not contain a buffering period.

**Note:** The AXON Device Audit Trail indicated that Officer McCoy powered on his BWV at 1914:39 and activated his BWV at 1914:41, as he responded code three to Officers Obaidee and Huerta's backup request.

At approximately 1920:49 hours, in the hallway outside of the apartment, Officer McCoy's BWV captured Officer Obaidee describing the use of force to Sergeant Cohan and informing her that he placed the suspect into a choke hold.

- Sergeant Ruiz had two BWV activations; the first at approximately 1915:16 hours, when he left the police station and the second at approximately 1935:08 hours. His first activation did not contain a buffering period and captured a portion of his response. Upon entering the apartment, Sergeant Ruiz' BWV captured Officers Obaidee and Huerta restraining Alan Aparicio on the living room floor.

At approximately 1921:18 hours, Sergeant Ruiz' video captured Officer Obaidee describing the use of force to Sergeant Cohen. During the description, Officer Obaidee informed Sergeant Cohen that he placed the suspect into a choke hold.

Sergeant Ruiz' second activation, during the buffering period, captured Officers Obaidee and Huerta standing together in the hallway outside of the apartment, unmonitored, at 1936:03 hours.

- Sergeant Cohen activated her BWV at approximately 1917:43 hours, when she arrived at the apartment. According to Sergeant Cohen, she activated her BWV in the SOW parking lot. Her BWV captured a portion of her response to the scene, during the two-minute buffering period.

At approximately 1917:45 hours, her BWV captured Officers Obaidee and Huerta restraining Alan Aparicio on the living room floor. At approximately 1919:05 hours, Sergeant Cohan asked Officer Obaidee if he was involved in a use of force, and he replied, "Yes."

- Officer Salazar activated his BWV at approximately 1918:26 hours, when he arrived at the apartment. His video captured a portion of his Code Three response, during the two-minute buffering period.

His video captured Officer Obaidee standing in the hallway with Alan Aparicio. Officer Salazar took custody of Alan and walked him downstairs to the sidewalk.

At approximately 1926:44 hours, Southeast Patrol Division, uniformed Police Officer II Ephraim Aramburo, Serial No. 38265, on loan to Southwest Patrol Division, approached Officer Salazar and informed him that the incident was now a FID callout.

At approximately 1929:39 hours, Officer Salazar's BWV captured the RA arrive at scene. The FF/EMTs rendered aid to Alan Aparicio and advised Officer Salazar that his vitals were good and he was okay for booking.

At approximately 1933:37 hours, Officer Salazar's video captured all three supervisors at scene standing on the sidewalk in front of the location.

At approximately 1934:33 hours, Sergeant Cohen can be heard advising officers that they need to hold the crime scene for FID.

At approximately 1935:45 hours, the video captured Sergeant Cohen ask Sergeant Ruiz if he wanted to send one of the officers downstairs to be separated.

**Social Media:**

Personnel assigned to FID Cyber Unit monitored social media sites from the date of the incident until the submission of this investigation. No additional evidence, information, or witnesses were identified via social media.

**Other Department Video:**

None.

**Outside Video:**

None.

**Photographs:**

Technical Investigation Division, Photographer III Garry Brod, Serial No. N1328, responded to the scene and took photographs of the location and associated evidence. He also photographed the officers, Witnesses Benjamin Aparicio and Gabina Flores, Victim Aparicio and Alan Aparicio. The photographs were stored under Control No. D0769601.

Sergeant Cohen took a total of four photographs using her cellular phone. The photographs are stored under File No. 659493.

Sergeant Ruiz took two photographs of Victim Aparicio's injuries using his cellular phone. Those photographs are stored under File No. 659495.

**Notifications**

On June 4, 2019, at approximately 2035 hours, the DOC was notified of the CRCH and the details of the subsequent notifications are attached.

**Personnel at Scene**

Commander Marino was the first representative from FID to arrive at scene at approximately 2215 hours. Crime scene logs documenting additional personnel at the location are contained within the FID case file and are available for review.

**Communications**

A copy of the CD Incident Recall printout related to Incident No. 190604005206, is on file at FID. A digital recording of Southwest Patrol Division's base frequency, as well as the 911 call related to this incident is stored at FID.

## **Justice System Integrity Division**

This case did not meet the criteria for presentation to the Justice System Integrity Division (JSID).

### **Investigator's Notes**

1. On the date of this incident, the Los Angeles Police Department (LAPD) did not have an active Training Bulletin regarding Carotid Restraint Control Holds. The previous Training Bulletin, dated August 2005, was deactivated on March 19, 2019. Since the Training Bulletin was no longer active, it was not available to be viewed on the Department database.

On June 17, 2019, Force Investigation Division (FID), Detective Bowser called Police Training and Education, Field Training Support Unit, and spoke with Sergeant II Richard Stark, Serial No. 30012. Sergeant Stark confirmed the deactivation of the previous Training Bulletin, dated August 2005, and advised that an updated version is forthcoming.

On January 21, 2020, FID Detective III Brandy Arzate, Serial No. 34394, contacted Sergeant Stark and was advised the updated Training Bulletin is still in the review process and has not been released.

2. Officer Obaidee did not have OC spray or a HRD in his possession at the time of the incident. Officer Obaidee was directed by FID investigators to replace his missing equipment.

On June 12, 2019, Officer Bowser received an email from Officer Obaidee indicating that he obtained a replacement canister of OC spray and HRD from the Southeast Patrol Division Training Coordinator.

On August 6, 2019, Commanding Officer, Force Investigation Group, Commander Robert Marino, informed Director, Office of Operations, Assistant Chief Robert Arcos, of the missing equipment.

3. According to Officer Huerta, he forgot to activate his BWV while responding to the radio call or upon arrival. He activated his BWV upon the conclusion of the use of force. At the time of the incident, Officer Huerta was a Probationary Officer and had approximately three weeks of field experience.

Professional Standards Bureau, Notice No. 13.5, Guidelines for Reviews of Body Worn and Digital In-Car Video Recordings, recognizes a 90-Day Transition Period for officers. Per the Notice, during the 90-day transition period, in accordance with the Office of Operations and Office of Special Operations Orders, unintentional deviations in policy and procedure in the use and deployment of BWV and Digital In-Car Video (DICV) will be considered training issues. And during the transition

period, Department employees should receive non-documented counseling and training only.

4. On November 11, 2019, Officer Obaidee was re-interviewed by FID Detective III Brandy Arzate, Serial No. 34394 and Detective II Paul Bowser, Serial No. 35842. During the interview, Detective Bowser asked Officer Obaidee for a more detailed description of the CRCH he applied. Initially, Officer Obaidee said he placed the boney part of his forearm under Alan Aparicio's neck (near his throat), on the carotid artery, with intentions of restricting blood flow to the brain.

Detective Bowser asked Officer Obaidee, if he knew where the carotid artery is located on the human body. Officer Obaidee said it is located near the throat and pointed to the front of his neck.

Attorney Greg Yacoubian presented the LAPD Training Bulletin on Carotid Restraint Control Holds, dated August 2005 to Officer Obaidee and gave him an opportunity to review it. Officer Obaidee corrected himself and advised that the carotid artery is located on the left or right sides of the neck. He then clarified that during the CRCH, he placed the inner portion of his forearm against the left side of Alan's neck and applied pressure, as opposed to the throat area.

After reviewing the Training Bulletin, Officer Obaidee identified the CRCH he utilized as the Full Carotid Control hold. However, it was applied in reverse, since the suspect was facing him.

5. On January 24, 2019, Officer Sal Obaidee was re-interviewed by FID Detective III James Goossen, Serial No. 26464, and Detective Bowser. Detective Goossen directed Officer Obaidee to explain how he applied the CRCH to Training Division, Arrest and Control Instructor, Police Officer II Neil Warren, Serial No. 37557. Officer Warren and Police Officer III Robert Wu, Serial No. 31269, demonstrated the CRCH as explained by Officer Obaidee. TID Photographer III Karen Coogle, Serial No. V8680, took photographs of the CRCH demonstration. Officer Obaidee reviewed the photographs and advised Detectives Goossen and Bowser that the photographs accurately demonstrated the technique that he used.

The actors used in the photographs were larger in stature than Officer Obaidee and Alan, and required additional effort to get into the position described by Officer Obaidee. The intent of the photographs was to depict the CRCH application only, and not the exact body positioning of Officer Obaidee or Alan. Additionally, the CRCH was demonstrated in a controlled environment, on a wrestling mat, by officers who remained still and were not actively resisting arrest.

6. The investigation determined that Sergeant Gonzalez was not wearing his BWV camera. According to Sergeant Gonzalez, he inadvertently left his camera at 77<sup>th</sup> Street Patrol Division, before responding to his detail at Southwest Patrol Division.

Sergeant Cohen did not activate her BWV until she arrived at scene, therefore, her video did not capture a portion of her Code Three response. However, Sergeant Cohen believed she activated her BWV in the parking lot of Southwest Station prior to her response.

Sergeant Gonzalez erroneously dated the second page of his Supervisor's Log, May 31, 2019.

On January 27, 2020, Commanding Officer, Force Investigation Division, Captain III Al Pasos, informed Assistant Chief Arcos of the issues.

7. According to Lieutenant Byeon, he was end of watch, working overtime, when he received a phone call from Sergeant Cohen. Sergeant Cohen notified him that a use of force occurred, but the details were very vague. Lieutenant Byeon decided to stay on duty until he had a definitive answer regarding the force used.

Sergeant Cohen called a second time and advised him that an officer applied pressure to the suspect's neck. Lieutenant Byeon wanted additional clarification before determining if the incident was a Categorical Use of Force. Lieutenant Byeon notified Southwest Patrol Division, Captain I Alex Baez, Serial No. 26623, and discussed the details of the incident. According to Lieutenant Byeon, Captain Baez recommended he review the officer's BWV for clarification.

Lieutenant Byeon viewed the officers' BWV via their Department cellular phones and the results were inconclusive, because the officers' BWV did not capture the CRCH application.

The AXON Evidence Audit Trail Report indicated that Officer Obaidee's BWV was streamed at 2003:40 hours and Officer Huerta's at 2010:11 hours.

Sergeant Cohen informed Lieutenant Byeon that the suspect may have lost consciousness for a brief time. Based on that information, Lieutenant Byeon formed the opinion that a Categorical Use of Force occurred and notified FID.

8. At approximately 1921:21 hours, Officer Obaidee advised Sergeant Cohen that he applied a *choke hold* to the suspect. The Watch Commander's Log, completed by Lieutenant Byeon, and the Supervisor's Logs completed by Sergeants Cohen and Ruiz indicate the separation and monitoring began at 1930 hours. An analysis of the BWV evidence determined that the separation and monitoring did not begin until approximately 1936 hours.

At approximately 1930:19 hours, Sergeants Cohen and Ruiz exited the apartment building, while Officers Obaidee and Huerta remained upstairs unmonitored. Sergeants Cohen and Ruiz joined Sergeant Gonzalez on the sidewalk in front of the apartment building.



At approximately 1933:37 hours, as captured by Officer Salazar's BWV, all three supervisors were still standing together in front of the location. At approximately 1935:41 hours, Sergeant Ruiz began walking upstairs toward Officers Obaidee and Huerta. As he did so, Sergeant Cohen asked Sergeant Ruiz if he wanted to send one of the officers downstairs for separation. Sergeant Ruiz' response was not captured on video.

At approximately 1937:24 hours, Officer Salazar's BWV captured Officer Obaidee standing on the sidewalk beside Sergeant Cohen. The video analysis determined that Officers Obaidee and Huerta were left unmonitored for a minimum of five minutes.

None of the supervisors at scene formally declared themselves as the Incident Commander. However, Sergeants Ruiz and Gonzalez believed Sergeant Cohen was Incident Commander, since she was handling the initial use of force investigation; prior to it being categorized as a CRCH.

According to Sergeant Ruiz, and as depicted in his Supervisor's Log, Sergeant Cohen transported Officers Obaidee and Huerta to Southwest Station. The investigation determined that Sergeant Cohen transported Officer Obaidee only. Officer Huerta was transported by Sergeant Gonzalez.

On August 6, 2019, Commander Marino, informed Assistant Chief Arcos of the issues.

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## CHIEF OF POLICE REPORT<sup>50</sup>

### Chief of Police Findings

- **Tactics** – Administrative Disapproval, Officer Obaidee. Tactical Debrief, Officer Huerta.
- **Non-Lethal Use of Force** – In Policy, No Further Action, Officers Obaidee and Huerta.
- **Lethal Use of Force** – Out of Policy, Administrative Disapproval, Officer Obaidee.

### Chief of Police Analysis

#### **Detention**

- Officers Obaidee and Huerta received a radio call of a Battery Suspect There Now. The officers responded and were directed to Alan. The officers attempted to take Alan into custody. Alan physically resisted the officers resulting in applications of non-lethal force. According to Officer Obaidee, the incident further escalated wherein Alan attempted to gain control of Officer Obaidee's service pistol. Alan's actions resulted in an application of lethal force by Officer Obaidee, in the form of a CRCH. The officers' detention was within Department policies and procedures.

#### **Tactics**

- Department policy relative to a Tactical Debrief is: *"The collective review of an incident to identify those areas where actions and decisions were effective and those areas where actions and decisions could have been improved. The intent of a Tactical Debrief is to enhance future performance"* (Los Angeles Police Department Manual, Volume 3, Section 792.05).

Department policy relative to Administrative Disapproval is: *"A finding, supported by a preponderance of the evidence that the tactics employed during a CUOF incident unjustifiably and substantially deviated from approved Department tactical training"* (Los Angeles Police Department Manual, Volume 3, Section 792.05).

The evaluation of tactics requires that consideration be given to the fact that officers are forced to make split-second decisions under very stressful and dynamic circumstances. Tactics are conceptual and intended to be flexible and incident specific, which requires that each incident be looked at objectively and the tactics be evaluated based on the totality of the circumstances.

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<sup>50</sup> The information provided in this section summarizes the analysis and findings set forth in the Chief of Police's report for this case.

## Tactical De-Escalation

- *Tactical de-escalation involves the use of techniques to reduce the intensity of an encounter with a suspect and enable an officer to have additional options to gain voluntary compliance or mitigate the need to use a higher level of force while maintaining control of the situation.*

### *Tactical De-Escalation Techniques*

- **Planning**
- **Assessment**
- **Time**
- **Redeployment and/or Containment**
- **Other Resources**
- **Lines of Communication**

*(Use of Force - Tactics Directive No. 16, October 2016, Tactical De-Escalation Techniques)*

Tactical de-escalation does not require that an officer compromise his or her safety or increase the risk of physical harm to the public. De-escalation techniques should only be used when it is safe and prudent to do so.

**Planning** – Officers Obaidee and Huerta had been regular partners for three weeks. The officers discussed tactics daily throughout their shift and also while en route to radio calls. In conjunction with discussions, the Officers also conducted self-directed training. The officers had a permanently assigned *contact and cover* responsibility due to Officer Huerta's limited experience. On the day of the incident, Officer Huerta was assigned as the cover officer, while Officer Obaidee was the contact officer. Officer Obaidee placed himself and Officer Huerta at a tactical disadvantage by not requesting a Spanish language translator once it was clear that his very limited capabilities did not suffice. A Spanish translator was critical to assisting him in determining the specific information related to the radio call, as well as any additional background information available to aid in planning their response. After locating Alan, Officer Obaidee provided direction to Officer Huerta concerning how to detain Alan even though officers were at a tactical disadvantage by not having full awareness or information on persons at the location. Officer Obaidee's overall planning lacked depth and proactive engagement in the call to which they were assigned. As a result, he and his partner were at a disadvantage to effectively handle the situation.

**Assessment** – Officers Obaidee and Huerta were faced with a partial set of facts and an obvious language barrier upon arrival to the call location. The officers made contact with the caller, and briefly assessed the circumstances of the call, as neither of the officers were proficient in Spanish. The officers missed the critical opportunity to further assess the call when they made contact with a cooperative Victim Aparicio, due to their inability to communicate in Spanish. Victim Aparicio's injuries were fresh

and significant. It was evident he had been involved in a violent confrontation, later determined to be with his son, Alan. There was no interview of Victim Aparicio at that point. Once again, at least in part due to the language barrier, key information could have been obtained. A second opportunity for significant information was lost. Upon contact with Alan, officers properly assessed the need for a backup when they were met with his violent resistance. However, had officers properly assessed the call, an additional unit would have most likely already been on scene which may have prevented and/or quickly assisted in overcoming any resistance.

Following the use of force upon Alan, the officers assessed his condition, and believed he was possibly under the influence of narcotics and needed medical attention.

Officers Obaidee and Huerta also believed that after Alan was handcuffed, moving him may further incite additional resistance; thus, they maintained control of him in one location until additional officers arrived. The officers used the lowest level of force that they determined to be necessary and continuously assessed their actions in an attempt to safely control Alan.

Personnel from the LAFD assessed Alan's condition after their arrival and provided timely, but limited medical treatment, due to the subsequent incomplete communication to LAFD personnel regarding the extent of the use of force.

**Time** – Officers Obaidee and Huerta were not faced with circumstances which warranted an immediate police response inside of the apartment as the generated call was Code Two and involved a “Battery Suspect There Now.” Officers contacted the PR who appeared calm and composed, but only spoke Spanish. Officers did not take the time to request additional resources in an effort to fully bridge the language barrier and rushed into the building. When officers contacted other involved parties who also only spoke Spanish, the officers continued to move forward in handling the call. Officers did not heed the visible indications of a violent struggle between Victim Aparicio and Alan. Furthermore, the officers did not take time to pause and re-evaluate the nature of the call and conflict. When the officers were told where Alan was, officers did not request an additional unit. The officers quickly made contact and proceeded to make entry into Alan's bedroom and allowed Alan's mother, G. Flores, to assist in removing the blanket uncovering Alan, while in immediate proximity of Alan, who had already committed a violent assault against G. Flores' husband, Victim Aparicio. Officers did not use time to their advantage to handle the call, which would have afforded greater control in the response and engagement with Alan.

**Other Resources** – Officer Huerta utilized his handheld radio to broadcast a request for a backup when Alan was on top of Officer Obaidee. This broadcast brought additional officers to the location that could assist in maintaining control of Alan. It would have been preferable for a broadcast of additional officers or a supervisor to have been conducted earlier. Victim Aparicio had visible injuries and neither officer

had sufficient language skills to interview the persons who were at the location of the incident before immersing themselves into the scenario. Officers Obaidee's and Huerta's observations of Alan's behavior indicated to them that Alan may have been under the influence of narcotics. In order to provide medical resources, an RA was requested to respond.

**Lines of Communication** – Officers Obaidee and Huerta struggled to open lines of communication with those involved in the incident. The officers missed the best opportunity to open those lines of communication by not requesting a Spanish speaking officer who would have been able to obtain more detailed information regarding the incident and Alan's mental health issues. It was their responsibility to make such a basic communication related request. Their decision instead, to move forward in handling the call without the knowledge or situational awareness needed for the safety of all created a series of concerning consequences.

In addition, Officer Obaidee severely limited the ability of Officer Huerta to assist him by not communicating to Officer Huerta his belief that Alan was attempting to or had attempted to gain control of his service pistol. Officer Obaidee's closest back up was his partner who he stated was two to three feet away in the room. Despite the proximity of his partner, Officer Obaidee communicated nothing regarding what he believed was an exigent life-threatening circumstance.

Officer Obaidee did not inform the on scene supervision, in a timely manner, that a CRCH was utilized or that the CRCH had rendered Alan unconscious. This failure to accurately communicate his actions in a timely manner delayed the Department required medical treatment and the level of care that Alan would have received from paramedics. In fact, although Officer Obaidee advised a supervisor later that Alan was rendered unconscious, this information was not relayed to LAFD personnel.

**Note:** According to the FID investigation, Alan was examined by Dr. Roland Lee of the 77<sup>th</sup> Street Regional Jail Dispensary, three hours after Officer Obaidee applied the CRCH which rendered him unconscious. Dr. Lee cleared Alan for booking upon completion of his examination.

## **Debriefing Points**

During the review of the incident, the following Tactical Debriefing Points were noted:

- **Additional Unit Request**

*An "Additional Unit" broadcast is when an officer requires an additional unit for a non-emergency situation. The officer requesting shall include the location, followed by the unit identification and all other pertinent information. An "additional unit" request is not an emergency call and responding officers shall obey all traffic laws when responding (Los Angeles Police Department Manual, Volume 4, Section 120.40).*

Officers Obaidee and Huerta arrived on scene and were met by G. Flores who only spoke Spanish. Neither officer was able to fully communicate with or understand her. Officers were only able to translate minimal portions of information and were missing vital elements concerning the facts of this case and officer safety aspects. As a result of their minimal understanding of Spanish, the officers were not aware that the suspect, Alan, was related to Victim Aparicio, and that Alan was a resident in the apartment. A critical piece of information that was missing was that Alan suffered from a history of problems related to mental health challenges. The officers were also not aware that another family member, Benjamin, was also present in the apartment.

Although officers are given discretion regarding the appropriate time to broadcast, a request for an additional unit, it would have been tactically advantageous, based on the officers limited Spanish speaking ability, to request an additional Spanish speaking unit to obtain vital information from G. Flores.

In this case, the officers had the time and opportunity to wait for an additional unit to respond and time to contact, even telephonically, other resources, such as the Mental Evaluation Unit (MEU), prior to entering the apartment or initiating contact with Alan. Each of these actions would have been tactically advantageous.

The UOFRB opined, and the Chief concurred, that it would have been prudent to request an additional unit based on the domestic nature of the radio call, along with the clear and declared (by Officer Obaidee himself on BWV) language barrier present prior to entering the apartment.

Based on the totality of the circumstances, the UOFRB determined, and the Chief concurred, that while identified as an area for needed improvement due to missed critical opportunities, poor judgement, and substandard communication with persons at the radio call, in this instance, the officers' actions minimally met the standard for the Department's tactical training. Even though the Chief had concerns regarding the officers' actions, the officers did not significantly deviate from approved Department tactical training. However, in an effort to enhance future performance, the Chief directed that this be a topic of discussion during the Tactical Debrief.

- **Situational Awareness** (Substantial Deviation – Officer Obaidee)

*No matter what patrol strategy is deployed, officers on patrol must rely on their own observation and perception skills. Officers must function as trained observers. Officers on patrol are expected to practice disciplined observation and apply their training and experience to accurately perceive what is occurring or is about to occur.*

*To an officer, observation means the ability to gather information by noting facts or occurrences with a heightened sense of awareness. While on patrol, officers must use not only their eyes, but all of their senses including hearing, smell, etc., to obtain information from the outside world. Observation can be enhanced by training*

*(knowing what to look for), experience (knowing where and when to look for it), a variety of special tools (e.g., binoculars, night vision scopes, etc.) (California Commission on Peace Officer Standards and Training, Learning Domain No. 21).*

Officer Obaidee had an insufficient amount of awareness of the situation into which he was entering, impacting his overall control. Beginning from the initial contact with G. Flores, Officer Obaidee was complacent, failing to develop information needed to clarify details for a thorough investigation. Officer Obaidee settled for basic facts and rushed into a situation where he was not proficient in the language. Officer Obaidee did not attempt to request additional resources, in the form of a Spanish speaking officer, in an attempt to complete a preliminary investigation of the incident. Officer Obaidee was also partnered with an employee still reliant on his guidance, due to having minimal field experience.<sup>51</sup>

The UOFRB noted that Officer Obaidee appeared to have pre-judged the incident, making a statement regarding “mutual combat” which indicated a mindset that this incident may result in an offer to all involved parties for a Private Person’s Arrest. Officer Obaidee lacked sufficient resources to make a proper determination of the nature and type of incident that he was investigating. This radio call for service involved family violence and posed a potential danger of family members engaging themselves into the incident as the officers conducted their investigation.

It is imperative that officers, during rapidly unfolding tactical situations, maintain situational awareness allowing them to multi-task in order to successfully resolve the incident without increasing the risk of harm to themselves or their partners. In this case, Officer Obaidee followed G. Flores into an apartment with minimal information and missing facts. Once inside the apartment, Officer Obaidee encountered two witnesses and/or possible suspects. Officer Obaidee clearly observed that Victim Aparicio was injured based on the facial bruising, but did not interview or question Victim Aparicio to further the investigation. Officer Obaidee had only been able to obtain minimal details and did not know who the suspect was amongst the numerous persons at the location. Officer Obaidee subsequently left Victim Aparicio un-handcuffed to move about freely even though he appeared to have been engaged in a physical altercation. Officer Obaidee then entered a room where he observed two additional males, Benjamin, who was standing, and Alan, who was lying covered and face down on the ground. Officer Obaidee again had no facts, nor did he positively know if Benjamin was involved in the battery. Furthermore, Officer Obaidee allowed Benjamin to remain in the room to move about freely as he dealt with Alan.

A review of BWV showed Benjamin to be only minimally interactive or interested in assisting the officers with the investigation, a potential issue and officer safety risk.

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<sup>51</sup> Officer Obaidee was a tenured Field Training Officer of two years, six months at the time of this incident. Officer Huerta had completed academy training three weeks prior to this incident.

Officer Obaidee also allowed G. Flores to enter the room and approach Alan, removing a blanket that was covering him.

The UOFRB discussed the complacency of Officer Obaidee throughout the radio call which was concerning and led to an under estimation of the situation. The UOFRB opined, that based on the displayed assumptions of Officer Obaidee, he minimized the potential risk of the radio call and the associated danger. Officer Obaidee proceeded with the radio call with a void of information. Officer Obaidee allowed G. Flores to actively engage herself in the incident to the point where she could have been injured. Officer Obaidee also developed little, if any, background on the fresh and substantial injuries to Victim Aparicio which were later determined to have been sustained as a result of the violent assault from Alan. The vital language assistance which a Spanish speaking officer on scene could have provided is clear. Clear Spanish communication would have provided critical information that would have prevented the officers from placing themselves in a tactical disadvantage.

Additionally, Officer Obaidee was unaware that his hand-held radio was not on Southwest Area base frequency. Obaidee had limited control of the situation and placed himself and Officer Huerta at a tactical disadvantage.

Based on the totality of the circumstances, the UOFRB determined, and the Chief concurred, that Officer Obaidee's lack of situational awareness substantially, and unjustifiably, deviated from approved Department tactical training. The Chief directed that this be a topic of discussion during the Tactical Debrief.

- **Tactical Communication and Planning** (Substantial Deviation – Officer Obaidee)

*Officers are trained to work together and function as a team. In order to ensure officer safety and help ensure an appropriate outcome, the primary officers and cover officers must effectively communicate with one another. Appropriate communication involves advising the primary officer of any critical occurrences or safety issues (California Commission on Peace Officers Standards and Training, Learning Domain No. 22).*

*Officers must approach every contact with officer safety in mind. Complacency, overconfidence, poor planning, or inappropriate positioning can leave officers vulnerable to attack (California Commission on Peace Officer Standards and Training, Learning Domain 21).*

On multiple occasions throughout the incident, Officer Obaidee did not effectively communicate his perception of Alan's deadly actions with Officer Huerta, supervisors, or with responding units.

Operational success is based on the ability of officers to effectively communicate during critical incidents. Officers, when faced with a tactical incident, improve their



overall safety by their ability to recognize an unsafe situation and work collectively to ensure a successful resolution.

In this case, during the struggle to take Alan into custody, Officer Obaidee did not communicate with Officer Huerta his belief that Alan was attempting to or had attempted to gain control of his service pistol; he only advised Officer Huerta to request a backup. Even immediately after the application of the CRCH, Officer Obaidee did not advise Officer Huerta that he believed Alan had attempted to take his service pistol during the struggle. Additionally, Officer Obaidee did not inform the on-scene supervisors in a timely manner that a CRCH was utilized or that the CRCH rendered Alan unconscious which delayed the Department required medical treatment.

The information regarding Alan's attempt to take Officer Obaidee's service pistol was only known to Officer Obaidee, who did not communicate it to any other personnel in a timely manner. The lack of information about Alan's level of violence put Officer Huerta and the responding officers at a distinct tactical disadvantage. Officer Obaidee was aware of important information related to a life-endangering circumstance, and did not communicate it in a timely manner to any other personnel. The UOFRB noted that Officer Huerta involved himself in the application of force during the officers' attempts to control Alan. Officer Huerta demonstrated a willingness to be engaged in the incident, but would have benefitted tremendously from information, direction, and coordination from Officer Obaidee.

During the UOFRB, Department Subject Matter Experts (SME) from the Arrest and Control (ARCON) and the Physical Training Self-Defense units were present and provided information on Department training. The SMEs presented that when faced with exigent life threatening circumstances, such as what Officer Obaidee was faced with, regarding Alan attempting to take Officer Obaidee's service pistol, Department training was to verbally alert the partner officer. This would allow for the partner officer to render immediate aid and for the officers to coordinate their actions together, an action Officer Obaidee failed to do.

Based on the totality of the circumstances, the UOFRB determined, and the Chief concurred, that Officer Obaidee's actions were a substantial deviation, without justification, from approved Department tactical training. The Chief directed this be a topic of discussion during the Tactical Debrief.

### **Additional Tactical Debrief Topic**

- **Handcuffing Procedures** – The investigation revealed that Officers Obaidee and Huerta, prior to their attempt to handcuff Alan, even though his hands were visible on the mattress, wanted to have Alan stand to clear his front waistband. Officers gave Alan directions to wake up. Alan provided no response to their directions, stood up, and began struggling with the officers. Officers were already in a position of advantage with Alan lying on the ground and are trained to utilize a position of

advantage to safely handcuff a person. Although Alan appeared to have been non-confrontational at that time while lying on the ground, the incident rapidly escalated into a physical confrontation once Alan stood up. The officers are reminded that the primary purpose of handcuffing an arrestee is to maintain control and minimize the possibility of escalating the situation. The Chief would have preferred that the officers had handcuffed Alan while he was already in a prone position on the floor, utilizing the Three Points of Contact handcuffing technique.<sup>52</sup> The Chief directed that this be a topic of discussion during the tactical debrief.

## **Command and Control**

- *Command and Control is the use of active leadership to direct others while using available resources to coordinate a response, accomplish tasks and minimize risk. Command uses active leadership to establish order, provide stability and structure, set objectives and create conditions under which the function of control can be achieved with minimal risk. Control implements the plan of action while continuously assessing the situation, making necessary adjustments, managing resources, managing the scope of the incident (containment), and evaluating whether existing Department protocols apply to the incident.*

*Command and Control is a process where designated personnel use active leadership to command others while using available resources to accomplish tasks and minimize risk. Active leadership provides clear, concise, and unambiguous communication to develop and implement a plan, direct personnel and manage resources. The senior officer or any person on scene who has gained sufficient situational awareness shall initiate Command and Control and develop a plan of action. Command and Control will provide direction, help manage resources, and make it possible to achieve the desired outcome. Early considerations of PATROL will assist with the Command and Control process (Los Angeles Police Department, Training Bulletin, Volume XLVII Issue 4, July 2018).*

Sergeants Cohen, Ruiz, and Gonzalez arrived in response to the backup request, subsequent to the use of force.

No supervisor formally declared themselves as the Incident Commander (IC). The UOFRB noted that based on the activities which occurred at the incident, Sergeant Cohen would have been the most appropriate supervisor to declare herself as the IC. Although Sergeant Cohen's actions were consistent with an IC, the Chief would have preferred that one of the sergeants had verbally declared themselves the IC.

Sergeant Gonzalez broadcast a Code Four on his handheld radio and managed responding resources. Sergeant Gonzalez monitored Officer Huerta and obtained a

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<sup>52</sup> Three Points of Contact is a handcuffing technique where an officer makes physical contact of the suspect's back, elbow, and wrist to control the suspect and minimize the suspect's ability to physically resist the officer's attempt to handcuff them.

partial PSS from him. In this case, due to the incident involving a CRCH, the full PSS was not required. Sergeant Gonzalez later transported Officer Huerta to Southwest Community Police Station<sup>53</sup>.

The actions of Sergeant Gonzalez was consistent with Department supervisory training and the Chief's expectations of field supervisors during a critical incident.

Sergeant Cohen made notifications to the Southwest Division Watch Commander about the subsequent CUOF. Sergeant Cohen directed Officers Obaidee and Huerta not to discuss the incident. Additionally, she monitored Officer Obaidee, obtained a PSS from him, and transported him to Southwest Community Police Station.

Sergeant Ruiz ordered Officer Huerta not to discuss the incident and maintained the crime scene until relieved by FID investigators.

The investigation revealed that Sergeants Cohen and Ruiz left Officers Obaidee and Huerta unmonitored for approximately five minutes after the incident had been identified as a CUOF. The separation and monitoring of personnel involved in a CUOF incident is critical to preserve the integrity of the investigation and public trust. In this case, there were no on-going tactical exigencies which prevented the separation and monitoring of Officers Obaidee and Huerta.

Additionally, Sergeant Cohen was advised that Alan had been rendered unconscious as a result of the CRCH and did not ensure that LAFD personnel were advised of this critical fact. Ultimately, due to lack of follow through by Sergeant Cohen, LAFD personnel were not advised that Alan had lost consciousness, which resulted in a lower level of medical assessment conducted on scene by LAFD personnel. Appropriate medical treatment is imperative and vital when a suspect is rendered unconscious. Sergeant Cohen should have insured that Alan received the appropriate medical assessment and care due to Officer Obaidee's actions by communicating directly with LAFD personnel as protocols have been established to address suspects who are rendered unconscious. The UOFRB noted that as a result of Sergeant Cohen's actions, it was approximately three hours after the time of the application of the CRCH that he was seen at the jail medical dispensary by the on-duty physician during the booking process.

The UOFRB noted that the incident appeared to have a lack of control by supervisors which resulted in the aforementioned issues related to the separation and monitoring of officers and the delay in an additional medical assessment of Alan for being rendered unconscious.

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<sup>53</sup> Sergeant Gonzalez only provided a partial PSS due to his belief that the PSS did not address the use of a CRCH. Sergeant Gonzalez changed a question and omitted others.

The actions of Sergeants Cohen and Ruiz were not consistent with Department supervisory training and the Chief's expectations of field supervisors during a critical incident. The actions of Sergeants Cohen and Ruiz significantly deviated from approved Department tactical training. However, in an effort to enhance future performance, the Chief directed that this be a topic of discussion during the Tactical Debrief.

The investigation revealed that Sergeant Cohen previously had post categorical UOF supervisory issues that addressed the control and separation of officers. This issue was brought to the attention of Captain E. Tingirides, Serial No. 31546, Commanding Officer, Southeast Patrol Division. Captain Tingirides addressed this issue through the generation of a personnel complaint. The Commanding Officer of OSB and the Director of OO concurred with this action. As such, the Chief deemed no further action is necessary.

The investigation revealed that Sergeant Ruiz previously had post categorical UOF supervisory issues that addressed the control and separation of officers. This issue was brought to the attention of Captain Tingirides. Captain Tingirides addressed this issue through the generation of a personnel complaint. The Commanding Officer of OSB and the Director of OO concurred with this action. As such, the Chief deemed no further action is necessary.

### **Tactical Debrief**

- In conducting an objective assessment of this case, the UOFRB determined, and I concur, that the tactics utilized by Officer Obaidee substantially, and unjustifiably, deviated from approved Department tactical training, thus requiring a finding of Administrative Disapproval.

Each tactical incident also merits a comprehensive debriefing. In this case, there were identified areas where improvement could be made and a Tactical Debrief is the appropriate forum for the involved personnel to discuss individual actions that took place during this incident.

Although not identified as to be substantially involved personnel, Sergeants Cohen, Ruiz, and Gonzalez would benefit from the attendance of the Tactical Debrief to enhance future performance.

Therefore, the Chief directed that Sergeants Cohen, Ruiz and Gonzalez, along with Officers Obaidee and Huerta, attend a Tactical Debrief and that the specific identified topics are discussed.

**Note:** Additionally, the Tactical Debrief shall also include the following mandatory discussion points:

- Use of Force Policy;
- Equipment Required/Maintained;

- Radio and Tactical Communication (including Code Six);
- Tactical Planning;
- Tactical De-Escalation;
- Command and Control; and,
- Lethal Force.

## **General Training Update (GTU)**

- On June 13, 2019, Officers Obaidee and Huerta attended a GTU. All the mandatory topics were covered.

## **Use of Force – General**

- *It is the policy of this Department that personnel may use only that force which is “objectively reasonable” to:*
  - *Defend themselves;*
  - *Defend others;*
  - *Effect an arrest or detention;*
  - *Prevent escape; or,*
  - *Overcome resistance (Los Angeles Police Department Manual, Volume 1, Section 556.10).*

*The Department examines reasonableness using Graham v. Connor and from the articulated facts from the perspective of a Los Angeles Police Officer with similar training and experience placed in generally the same set of circumstances. In determining the appropriate level of force, officers shall evaluate each situation in light of facts and circumstances of each particular case. Those factors may include, but are not limited to:*

- *The seriousness of the crime or suspected offense;*
- *The level of threat or resistance presented by the subject;*
- *Whether the subject was posing an immediate threat to officers or a danger to the community;*
- *The potential for injury to citizens, officers or subjects;*
- *The risk or apparent attempt by the subject to escape;*
- *The conduct of the subject being confronted (as reasonably perceived by the officer at the time);*
- *The amount of time and any changing circumstances during which the officer had to determine the type and amount of force that appeared to be reasonable;*
- *The availability of other resources;*
- *The training and experience of the officer;*
- *The proximity or access of weapons to the subject;*
- *Officer versus subject factors such as age, size, relative strength, skill level, injury/exhaustion and number officers versus subjects; and,*

- *The environmental factors and/or other exigent circumstances. (Los Angeles Police Department Manual, Volume 1, Section 556.10)*

## **Non-Lethal Use of Force**

- *It is the policy of this Department that personnel may use only that force which is "objectively reasonable" to:*
  - *Defend themselves;*
  - *Defend others;*
  - *Effect an arrest or detention;*
  - *Prevent escape; or,*
  - *Overcome resistance (Los Angeles Police Department Manual, Volume 1, Section 556.10).*
- **Officer Obaidee** – Firm Grip, Physical Force, Knee Strike, Elbow Strikes, Punch, and Body weight.

According to Officer Obaidee, he utilized a firm grip and physical force on Alan's right arm and attempted to put his hands behind his back. Alan resisted the officers attempt to take him into custody by swinging his arm and pulling away. Alan turned toward Officer Obaidee, and in a tackle motion, took Officer Obaidee down onto a bed. Alan was on top of Officer Obaidee and according to Officer Obaidee, Alan attempted to take his service pistol, resulting in the application of what Officer Obaidee termed a "reverse CRCH."<sup>54</sup> The application of the CRCH stopped Alan's initial resistance. Officer Obaidee utilized physical force to push Alan off him and onto the floor. As officers moved Alan to the floor, according to Officer Obaidee, the effects of the reverse CRCH quickly wore off as Alan regained his awareness. Alan rose to his knees in an attempt to stand up. Officer Obaidee utilized a firm grip with his left hand on Alan's right leg. Officer Obaidee used physical force and body weight to keep Alan on the floor. Alan was on his left side, swinging his arms. To stop Alan's actions and overcome his resistance, Officer Obaidee utilized his right knee to strike Alan in his right rib area. Alan continued to fight the officers. Officer Obaidee struck Alan with his right elbow two times in his back and punched him one time in his right rib area with his right hand. Officer Obaidee utilized a firm grip on Alan's right wrist, while he simultaneously applied body weight with his right knee to Alan's upper back near his shoulder to prevent him from flinging legs.

Officer Obaidee recalled, *"I stepped over the suspect, told him to grab him - - grab his left arm. I grabbed the right arm as we attempted to put his hands behind his back. Made several attempts before that though to tell him to, "Hey, man. Get up. This is the police. We want to talk to you." He was noncompliant. As we tried to grab his wrists to put his hands behind his back, he started to tighten up and hold his*

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<sup>54</sup> Training Division provides instruction on the approved Department CRCH technique. The technique in which applied by Officer Obaidee is not a Department approved technique. Training Division does not provide instruction on the version of the CRCH applied by Officer Obaidee.

*arm. And multiple times I told him, "Hey, calm down. Calm down." And then he just pulled - - started pulling his arms away and started swinging his arms. And at some point, he ended up turning and going forward basically - - describing almost like somebody trying to tackle somebody. He turned and made that motion to me - - towards me causing me to kind of back up and end up on top of a bed.<sup>55</sup>*

*After I released it, I tried to push him off of the bed and he start -- he began again to start fighting and resisting and swinging his arms. At that time, I reached over with my left arm, grabbed his, I believe, his right leg. And with the assistance of body weight and my partner, we were able to get him down on the ground on his side, but he was still swinging his arm. At that point I administered - - I believe it was a right knee to his right side of his body, which would be rib area. Again, constantly telling him to stop resisting, stop fighting. Continued to fight. Again, applied another elbow to his back. I think I actually applied two elbows to the back. Again, continued to verbalize, telling him to stop resisting, stop fighting. The same time I was attempting to try to grab ahold of his right arm to try to get control of the right arm obviously to eventually get him handcuffed, and he was still flinging his arms. I ended up punching him once in the right rib.<sup>56</sup>*

*And he was already off of me. We - - I pushed him off of me so I can get off of the bed so I would no longer be in that - - that position and he was already on the ground and then he started to get back up on his knees to again probably to get back up and that's when - - why I grabbed his leg to get him back down on the ground.<sup>57</sup>*

*Well, the elbow strike from my right arm.<sup>58</sup>*

*We, again, administered body weight to his - - to the upper part of his body with my right knee. My - - I can't recall - - I don't recall if I administered the handcuffs or if my partner did. But as we placed the body weight, again, he was still flinging with his legs."<sup>59</sup>*

- **Officer Huerta – Firm Grip, Physical Force, and Body weight.**

According to Officer Huerta, he attempted to handcuff Alan who was laying on the floor. Alan stood up and pulled his left arm away from Officer Huerta's firm grip. Alan then charged at Officer Obaidee. Alan took Officer Obaidee down onto a bed. Alan kicked and used his body weight in an attempt to get on top of Officer Obaidee.

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<sup>55</sup> Officer Obaidee, First Interview, Page 13, Lines 4-20.

<sup>56</sup> Officer Obaidee, First Interview, Page 14, Lines 12-25 and Page 15, Lines 1-7.

<sup>57</sup> Officer Obaidee, Second Interview, Page 17, Lines 16-21.

<sup>58</sup> Officer Obaidee, Second Interview, Page 18, Line 25 and Page 19, Line 1.

<sup>59</sup> Officer Obaidee, First Interview, Page 15, Lines 23-25, and Page 16, Lines 1-3.

To protect Officer Obaidee, Officer Huerta wrapped both of his arms around Alan's waist from behind and utilized physical force to pull him off his partner. Alan slid onto the floor. Officer Huerta then utilized body weight with his right leg on both of Alan's hamstrings and his left arm on Alan's left elbow place him in a prone position and take him into custody. Officer Huerta maintained this final position for approximately two minutes until additional resources arrived.

Officer Huerta recalled, *"When we were trying to cuff him on the ground, he stood up and he started moving his arms, moving his body weight. Then when he got his arm away from me, that's when he clenched towards my partner."*<sup>60</sup>

*That was the left arm, the one I had control of before he slipped out of my hand.*<sup>61</sup>

*So that and just charging towards my partner, sir. I couldn't see what his hands were doing, but I just saw him like his legs were kind of kicking, his body weight continually moved toward my partner, that he was trying to get on top of him.*<sup>62</sup>

*Sir, so that was a combination of my partner pushing the suspect off of him as well as myself pulling the suspect off my partner. So that combination of the force to actually slide him off the bed onto the ground.*<sup>63</sup>

*I was coming from behind the suspect.*<sup>64</sup>

*I had my arms around his waist pulling him tight and using my legs to create leverage to pull him away from my partner.*<sup>65</sup>

*So, it would be my - - my right leg was on both of his hamstrings to keep his legs pinned to the ground as well as using my - - my left arm to keep his left elbow flat on the ground.*<sup>66</sup>

*Estimate maybe two minutes.*<sup>67</sup>

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<sup>60</sup> Officer Huerta, First Interview, Page 12, Lines 19-23.

<sup>61</sup> Officer Huerta, First Interview, Page 13, Lines 8-10.

<sup>62</sup> Officer Huerta, First Interview, Page 13, Lines 18-22.

<sup>63</sup> Officer Huerta, Second Interview, Page 4, Lines 20-23.

<sup>64</sup> Officer Huerta, First Interview, Page 31, Lines 1-2.

<sup>65</sup> Officer Huerta, Second Interview, Page 5, Lines 9-11.

<sup>66</sup> Officer Huerta, Second Interview, Page 6, Lines 6-9.

<sup>67</sup> Officer Huerta, Second Interview, Page 13, Lines 5.



The UOFRB reviewed each application of non-lethal force utilized by Officers Obaidee and Huerta. Alan had escalated the incident when he was stood up by the officers by attempting to physically resist them. Alan charged Officer Obaidee, tackling and knocked him onto the bed. Throughout the incident, Alan continued to physically resist the officers.

The UOFRB discussed the officers' decision to maintain body weight on Alan while he was in the prone position and handcuffed. The UOFRB opined that due to the level of violence and continued resistance, along with the amount of time body weight was applied on Alan after he was handcuffed, the actions were reasonable.

Based upon the totality of the circumstances, the UOFRB determined, and THE Chief concurred, that an officer with similar training and experience as Officers Obaidee and Huerta, while faced with similar circumstances, would believe that the same applications of non-lethal force would be reasonable to overcome Alan's resistance while taking him into custody.

Therefore, the Chief found Officers Obaidee and Huerta's Non-Lethal Use of Force to be objectively reasonable and In Policy, No Further Action.

## **Lethal Use of Force**

- *Law enforcement officers are authorized to use deadly force to:*
  - *Protect themselves or others from what is reasonably believed to be an imminent threat of death or serious bodily injury; or,*
  - *Prevent a crime where the subject's actions place person(s) in imminent jeopardy of death or serious bodily injury; or,*
  - *Prevent the escape of a violent fleeing felon when there is probable cause to believe the escape will pose a significant threat of death or serious bodily injury to the officer or others if apprehension is delayed. In this circumstance, officers shall, to the extent practical, avoid using deadly force that might subject innocent bystanders or hostages to possible death or injury (Los Angeles Police Department Manual, Volume 1, Section 556.10).*
- **Officer Obaidee – Carotid Restraint Control Hold**

After officers initially tried to stand Alan up from the floor before handcuffing him, Alan became violently resistant and freed himself from Officer Huerta's firm grip. Alan turned his attention toward Obaidee and tackled him driving the officer on to his back on to a nearby bed with Alan on top of him.

According to Officer Obaidee, Alan was on top of him facing him. Officer Obaidee was on his back halfway sitting up on the bed and Alan's head and upper body were on the right side of his torso, under his armpit, on his service pistol side. Officer Obaidee then felt pulling on his service pistol and heard the snap of his holster open.

Officer Obaidee believed that Alan was attempting to disarm him in order to shoot him or his partner, Officer Huerta. To stop Alan's deadly actions, Officer Obaidee placed his arm around the back Alan's neck then placed his left palm to his right palm and applied pressure to Alan's carotid artery. Officer Obaidee in conjunction with the CRCH, lifted his hips off the bed to create additional pressure in what Officer Obaidee described as a "reverse carotid control hold." Officer Obaidee maintained the CRCH for approximately two to three seconds until Alan stopped resisting and his body relaxed.

*Officer Obaidee recalled, "As he's putting out the backup is when I felt someone pulling at my gun. And as he's pulling - - as I felt the gun being pulled, I heard my snap, because I have a double retention holster. So, I heard the snap. That's when I - - that's when I determined that he's probably try - - attempting to disarm me. I immediately placed the reverse carotid restraint hold approximately two to three seconds. After applying that assumption at that time, he went unconscious, because he stopped resisting and his body kind of just relaxed."<sup>68</sup>*

*My left hand went palm to palm with my right hand as I applied pressure to the carotid."<sup>69</sup>*

*Well, my elbow will be - - will be downward. I guess, it wouldn't be downward. I guess, it would be kind of - - it would be in the direction of the right portion the direction of where my arm was. It's kind of hard to explain. Because basically, it looks like a headlock but it's like a headlock but with somebody facing you. Normally, a headlock is administered if someone's behind you. In this case he was in front of me and then the headlock is almost looks like it's reversed."<sup>70</sup>*

*Based on the positioning that I was I was on - - in like a modified on my back on my butt kind of sitting up halfway position and the suspect was on top of me. And as he was on top of me, I was able to put my arm around his neck but facing downward and that's where my right forearm went across his throat. And when I talk about bridging up, I mean I basically I lift my hips from off of the - - the bed upward and that's what creates that pressure."<sup>71</sup>*

*So yeah, it would be his left side and it will be the inner portion of my forearm."<sup>72</sup>*

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<sup>68</sup> Officer Obaidee, First Interview, Page 13, Lines 23-25, and Page 14, Lines 1-9.

<sup>69</sup> Officer Obaidee, Third Interview, Page 2, Lines 22-23.

<sup>70</sup> Officer Obaidee, Second Interview, Page 7, Lines 8-17.

<sup>71</sup> Officer Obaidee, Second Interview, Page 6, Lines 2-9.

<sup>72</sup> Officer Obaidee, Second Interview, Page 14, Lines 4-6.

*He possibly would have disarmed me and taken my gun. And then probably shoot me and my partner.*<sup>73</sup>

The UOFRB noted that there was no clear video evidence, witness statements, or physical evidence which portrayed the circumstances immediately leading up to, during, and after the CRCH. The UOFRB noted that Officer Huerta did not observe Alan reaching for Officer Obaidee's service pistol, nor did he hear Officer Obaidee's holster unsnap. Officer Huerta stated that he observed Alan's *"hands moving in kind of that general direction,"* when asked by FID investigators if he had observed Alan's hands around Officer Obaidee's waist.<sup>74</sup> Officer Huerta further stated that he could not observe Alan's hands, but they *"looked like they were around his Sam Browne or around his waist or punching him (Officer Obaidee)."*<sup>75</sup>

The UOFRB was extremely concerned about Officer Obaidee's actions during the time he applied the CRCH. Officer Obaidee did not alert Officer Huerta of what Officer Obaidee believed was Alan's attempt to remove his service pistol. Officer Obaidee did not immediately advise the responding supervisors that Alan had attempted to disarm him or that he had applied a reverse CRCH to Alan. According to Officer Obaidee, Alan had attempted to remove Officer Obaidee's service pistol from his holster with the apparent intent to shoot him and Officer Huerta. Officer Obaidee was concerned that Alan was taking his service pistol to use it against him or his partner.<sup>76</sup> This critical information, related to a life endangering circumstance, was not relayed to Officer Huerta or to the responding personnel in timely manner.

Officer Obaidee also was unable to clearly articulate his actions, requiring multiple interviews with FID investigators. The UOFRB noted that during these interviews, Officer Obaidee stated that he had been training regularly for the last two years, and occasionally over the last three to five years in the martial art of Jiu Jitsu. According to Officer Obaidee, he had received the certification level of "blue belt" in Jiu Jitsu.<sup>77</sup> Despite his additional training, Officer Obaidee had difficulty articulating the CRCH technique that he had applied to Alan, along with the locations of the carotid arteries. It was not until Alan reviewed the Department training bulletin concerning the CRCH that he was able to fully describe his actions and application of the reverse CRCH which he applied. Additionally, Officer Obaidee utilized a form of the CRCH technique that is not taught in approved Department training. The UOFRB reviewed all available evidence, statements, and the FID investigation and determined that the circumstances of the incident were unclear and did not appear to rise to the level where lethal force was necessary or justified.

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<sup>73</sup> Officer Obaidee, First Interview, Page 55, Lines 9-10.

<sup>74</sup> Officer Huerta, Page 47, Lines 4-5.

<sup>75</sup> The term "Sam Browne" refers a duty equipment belt.

<sup>76</sup> Officer Obaidee, First Interview, Page 54, Lines 22-23.

<sup>77</sup> Officer Obaidee, First Interview, Page 21, Line 24.

Officer Obaidee did not coordinate with his partner, Officer Huerta during the use of force with Alan. Officer Huerta was immediately engaged in the use of force and was available to utilize other force options if Officer Obaidee had advised to do so. By Officer Obaidee not advising Officer Huerta of the perceived attempt of Alan to disarm him, Officer Obaidee did not use a valuable resource that was immediately available. Officer Obaidee had the opportunity to communicate with Officer Huerta who was available to work in a coordinated manner to apply alternative force options. The UOFRB considered that Officer Obaidee's application of the CRCH, a form of lethal force, was not a last resort.

During the UOFRB, Department SMEs from the ARCON and the Physical Training Self-Defense units were present during the UOFRB and provided information on the CRCH technique utilized by Officer Obaidee. While the reverse CRCH technique utilized by Officer Obaidee is not taught during Department training, the effects of the reverse CRCH will yield the same effects upon application as the CRCH technique that is taught during Department training. Additionally, the Department instructed application of the CRCH places the officer behind the suspect and affords a level of increased officer safety. However, the reverse CRCH as applied by Officer Obaidee held Alan on the side of Officer Obaidee's service pistol which further exposed Officer Obaidee to the violence of Alan.

The ARCON SMEs evaluated the specific type of holster which Officer Obaidee was equipped with during the incident. During their evaluation, the ARCON SMEs presented that even though Officer Obaidee's holster was designed as a double-retention holster, no holster is totally secure from a suspect's attempts to unholster an officer's service pistol.<sup>78</sup>

Additionally, during the UOFRB, the ARCON SMEs presented that during situations where a suspect is attempting to disarm an officer by taking their firearm, Department training is to immediately notify the partner officer of the situation and then coordinate together to safely resolve the incident. A preferable tactic is for the partner officer to restrain the suspect or to physically pull the suspect away from the officer whom the suspect was attempting to disarm. The UOFRB noted that Officer Obaidee failed to notify his partner of what he believed was Alan's attempt to disarm him. By not coordinating with his partner, Officer Obaidee did not utilize an additional resource that was immediately available to him, his partner officer.

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<sup>78</sup> Criminalist II R. Broderick, Serial No. N3398, Forensic Sciences Division (FSD), conducted an analysis of Deoxyribonucleic Acid (DNA) swabs collected from Officer Obaidee's service pistol, holster, and handcuff and ammunition pouches. The swab collected from the top portion and snap of Officer Obaidee's holster did not match Alan's DNA profile. The swabs collected from the handcuff and magazine pouches were unsuitable for interpretation. The swab collected from Officer Obaidee's service pistol and the lower portion of his gun holster contained insufficient amounts of DNA. Therefore, these swabs were not analyzed.

The UOFRB and the Chief conducted a comprehensive evaluation of the totality of circumstances related to the Use of Lethal Force by Officer Obaidee. The UOFRB noted that the preponderance of evidence does not support the assertion by Officer Obaidee that the incident escalated to the point that the Use of Lethal Force would be justified. Officer Obaidee's training in Jiu Jitsu afforded him additional physical force options and techniques which he did not utilize. Additionally, Officer Obaidee failed to utilize an additional resource, his partner, who was immediately available. Instead he applied a CRCH on the suspect. Officer Obaidee's lack of verbalization during and after the incident was inconsistent with the actions of an officer who had been involved in a life endangering physical altercation with a suspect.

Based on the totality of the circumstances, the UOFRB, determined and the Chief concurred, that an officer with similar training and experience as Officer Obaidee would not reasonably believe that the suspect's actions presented an imminent threat of death or serious bodily injury and that the Use of Lethal Force by Officer Obaidee was unreasonable.

Therefore, the Chief found Officer Obaidee's Use of Lethal Force to be Out of Policy, Administrative Disapproval.

### **Additional/Equipment**

- **Required Equipment** – The investigation revealed that Officer Obaidee was not in possession of his Oleoresin Capsicum spray or his Hobble Restraint Device at the time of the incident. This issue was brought to the attention of Captain E. Tingirides, Serial No. 31546, Commanding Officer, Southeast Patrol Division. Captain Tingirides addressed this issue through the generation of a Supervisory Action Item (SAI) and divisional training which was entered into the Learning Management System (LMS). The Commanding Officer of Operations - South Bureau (OSB) and the Director of the Office of Operations (OO) concurred with this action. As such, the Chief deemed no further action is necessary.
- **Post Categorical Use of Force Protocols** – The investigation revealed that Sergeants Cohen and Ruiz left Officers Obaidee and Huerta unmonitored for approximately five minutes after the incident had been identified as CUOF. Additionally, the RA was not advised that Alan had lost consciousness. These issues were brought to the attention of Captain Tingirides, who addressed them through the generation of SAI's for both Sergeants Cohen and Ruiz, and divisional training which were entered into the LMS. The Commanding Officer of OSB and the Director of OO concurred with this action. As such, the Chief deemed no further action is necessary.
- **Late Department Operations Center (DOC) Notification** – The FID investigation revealed that the DOC was notified approximately 80 minutes after the incident occurred. Sergeant Cohen, along with the Southwest Patrol Division Watch Commander, worked to verify if Officer Obaidee's use of force was indeed a CUOF.

Once the inquiry was completed and it was determined to be a CUOF incident, the DOC was notified within the 30-minute requirement.

- **Body Worn Video Activation** – The investigation revealed that Officer Huerta did not activate his BWV until after the UOF had occurred. However, Officer Huerta was within the 90-day transition period for BWV acclimation. This issue was brought to the attention of Captain Tingirides. Captain Tingirides addressed this issue through the generation of a SAI, and divisional training which was entered into the LMS. The Commanding Officer of OSB and the Director of OO concurred with this action. As such, the Chief deemed no further action is necessary.

Sergeant Cohen did not activate her BWV during her Code Three response to this incident. This issue was brought to the attention of Captain Tingirides. Captain Tingirides directed an analysis of Sergeant Cohen's previous history with BWV and determined that Sergeant Cohen did not have any prior incidents related to issues of BWV. Captain Tingirides addressed this issue through the issuance of an Employee Comment Sheet, the generation of a SAI, and divisional training which was entered into the LMS. The Commanding Officer of OSB and the Director of OO concurred with this action. As such, the Chief deemed no further action is necessary.

Sergeant Gonzalez was not in possession of his BWV device while in the field. Sergeant Gonzalez stated that he had responded to his assignment on loan to Southwest Patrol Division from 77<sup>th</sup> Community Police Station and had forgotten to bring his BWV with him. This issue was brought to the attention of Captain M. Odle, Serial No. 22369, Commanding Officer, 77<sup>th</sup> Street Patrol Division. Captain Odle directed an analysis of Sergeant Gonzalez' previous history with BWV and determined that Sergeant Gonzalez did not have any prior incidents related to issues of BWV. Captain Odle addressed the issue through informal counseling, the generation of an SAI, and an entry into the LMS. The Commanding Officer of OSB and the Director of OO concurred with this action. As such, the Chief deemed no further action is necessary.

### **Audio/Video Recordings**

- **Digital In-Car Video System (DICVS)** – Southeast Patrol Division's police vehicles were equipped with DICV at the time of the incident. However, none captured the use of force.
- **Body Worn Video** – Southeast Patrol Division officers were equipped with BWV at the time of the incident. Officers Obaidee BWV captured the initial contact with Alan and a portion of the use of force. Officer Huerta did not activate his BWV until after the UOF occurred. However, during the use of force, both officers' BWVs were dislodged from their uniforms. The responding patrol sergeants and officers activated their BWVs in response to this incident. However, none captured the use of force.

- **Outside Video** – No outside video surveillance captured the incident.

#### **Chief's Direction**

- To enhance the future performance of the Department, the Chief has advised the Director of the Office of Support Services (OSS) to conduct an evaluation of the curriculum, certification process, and training updates for both the Field Training Officer School and the Supervisory School. This incident highlighted some areas of improvement in the performance and understanding of FTOs with regard to the designation of responsibilities and roles, specifically related to contact and cover, and the utilization of force options. This incident also highlighted the necessity that supervisors have a comprehensive understanding of the identification of CUOF incidents and the subsequent policy and procedures of handling such incidents. The evaluation of both training programs has already been in progress, with the evaluation of Supervisory School already completed and FTO School pending completion.

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## **INSPECTOR GENERAL REVIEW**

### **Inspector General Analysis**

#### **Investigation Quality**

- No significant issues of concern were identified in relation to investigation quality.

#### **Training Issues**

- As noted in Investigator's Note No. 1 of the FID Incident Summary, on the date of this incident the Department did not have an active Training Bulletin regarding Carotid Restraint Control Holds. The previous Training Bulletin addressing this matter, dated August 2005, was deactivated on March 19, 2019. A revised Use of Force – Tactics Directive regarding the CRCH has since been completed.<sup>79</sup>

#### **Equipment Issues**

- No significant issues of concern were identified in relation to equipment.

#### **Detention**

- The OIG concurs with the Chief's analysis.

#### **Tactical De-escalation**

- The OIG concurs with the Chief's analysis.

### **Inspector General Recommendations**

#### **Tactics**

- The OIG concurs with the Chief's findings.

#### **Non-Lethal Use of Force**

- The OIG concurs with the Chief's findings.

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<sup>79</sup> Use of Force – Tactics Directive Carotid Restraint Control Holds, April 2020.



## **Lethal Use of Force**

- The OIG concurs with the Chief's findings.

A handwritten signature in black ink, appearing to read "M. P. Smith". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

Mark P. Smith  
Inspector General